IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

CHURCH OF SCIENTOLOGY, INTERNATIONAL,)
Plaintiff/Respondent,)
)
vs.)
)
GERALD ARMSTRONG,)
Defendant/Appellant.)

NO. A075027

CLERK'S TRANSCRIPT ON APPEAL

FROM A JUDGMENT MADE AND ENTERED

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

MARIN COUNTY COURTS

VOLUME 31

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

MARIN COUNTY COURTS

DEPARTMENT 1

CHURCH OF SCIENTOLOGY, INTERNATIONAL, Plaintiff, vs. GERALD ARMSTRONG, Defendant.	)	No. 157680

GARY W. THOMAS	JUDGE
JOHN P. MONTGOMERY	COURT EXECUTIVE OFFICER
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FILED 8554

SEP 20 1995

HOWARD HANSON
MARIN COUNTY CLERK
By J. Bankson, Deputy
JBankson

RT OF THE STATE OF CALIFORNIA

THE COUNTY OF MARIN

10/31

CHURCH NATIONAL,)
a California poration,)
Plaintiff,
vs.
GERALD ARMSTRONG; MICHAEL WALTON; THE GERALD ARMSTRONG CORPORATION, a California for-profit corporation; DOES 1 through 100, inclusive,
Defendants.

No. 157 680

OPPOSITION OF DEFENDANT GERALD ARMSTRONG TO EX PARTE APPLICATION; DECLARATION OF GERALD ARMSTRONG; DECLARATION OF FORD GREENE

I, Ford Greene, declare:

1. I am an attorney properly licensed by the California State Bar to practice law in all of the Courts of the State of California and am the attorney of record for Gerald Armstrong, defendant herein.

2. On September 15, 1995, after the Court had granted Armstrong's ex parte application for an extension of time to file papers in opposition to Scientology's two pending motions for summary adjudication, defense counsel Andrew Wilson asked me whether Armstrong would be filing what have been come to be known as Scientology's secret, upper level materials. I assured him that I would not be so doing, and told him that it was not because I believed that Scientology

has any legitimate claim to secrecy of said materials, but because I wanted to avoid the inevitable storm of grief that Scientology would generate if such materials were filed.

3. Based upon my word to attorney Wilson, I instructed Mr. Armstrong to remove, in total, the contents of Exhibit 1 (J)(A) in Volume Six of Armstrong's evidence which he did.

4. Scientology's claim that such materials are "secret" and not available to public is false because said materials have long existed in the **public domain**. They have been published in the National Press by the Washington Post and on the Internet.

5. Within the past week, a federal court specifically found that there is no trade secret status as to the subject materials. Pursuant to the Uniform Trade Secrets Act as adopted by the State of Colorado, Scientology claimed that Lawrence Wollersheim and FactNet misappropriated its trade secrets. Justice John L. Kane, Jr., Senior District Court Judge of the United States District Court for the District of Colorado wrote as follows on September 15, 1995:

> RTC is one of the formal entities constituting the Church of Scientology (the "Church") founded by L. Ron Hubbard. FACTNET is a non-profit educational and charitable corporation registered and with its principle place of business in Colorado. Wollersheim and Penny are former Scientologists ....[¶] RTC alleges that Defendants have placed on the Internet unauthorized copies of unpublished religious works called OT materials, often referred to as "Advanced Technology. They list the materials in issue (the "Works") in Exhibit "A" to the complaint. [pp. 1-3] ...
>
> RTC claims Defendants have misappropriated its trade secrets by acquiring, disclosing and using portions of the Works without authorization. Such claim is governed by the Colorado Uniform Trade Secrets Act ... [¶] Despite RTC and the Church's elaborate and ardent measures to maintain the secrecy of the Works, they have come into the public domain by numerous means. RTC's assertion that the only way in which the materials have escaped its control was through two thefts in Denmark and England was not supported by the evidence. ... The evidence also showed portions of the Works have been made available on the Internet through persons other than Lerma with the potential for downloading by countless users.
>
> The Works posted by Lerma were publicly available as part of an unsealed court record in the Central District of California in Church of Scientology International v. Fishman No. CV 91-6426 HLH (Tx), C.D. Cal. Wollersheim testified copies of the Works in his possession were sent to him by an attorney representing defendants in that case for whom he had provided consulting services.
>
> In August 1995, reporters of the Washington Post obtained copies of the Works from the unsealed Fishman file. The newspaper's publication of portions of the materials prompted RTC to request injunctive relief in Religious Technology Center v. Lerma, Civil Action No. 95-1107-A (E.D. Va.) On August 10, 1995, that court found the materials had escaped into the public domain and onto the Internet and that Lerma was not their only source on the Internet. Id., slip. op. at 14-15 (E.D. Va. Aug. 30, 1995). The court concluded RTC could not establish for the purpose of the preliminary injunction motion that the

> documents were "not generally known" as required by the Virginia statute.
>
> In the course of the hearing before me, RTC changed its position with regard to what materials constitute the purported trade secrets. At the outset, RTC maintained the entire Works were trade secrets. After evidence was heard indicating that the Works were in the public domain, RTC claimed that only portions of the Works, rather than the whole were secret. RTC's ambivalence and admission as to the non-secret nature of certain portions of the Works casts some doubt on the secret status of the Works as a whole.
>
> The evidence showed that the Works are widely known outside of the Church through multiple sources. As such, they are not secret within the meaning of the Colorado statue and RTC has not shown a substantial likelihood of success on the merits of its trade secret claim. (pp. 14-16)

A true and correct copy of Justice Kane's September 15, 1995, opinion is attached hereto and incorporated herein as Exhibit A.

6. Attached hereto as Exhibit B is the Order referred to Religious Technology Center v. Lerma, Civil Action No. 95-1107-A (E.D. Va.)

7. Based upon the status of such materials as being in the public domain and that Scientology cannot therefore claim trade secret status with respect thereto, Armstrong respectfully requests that he be allowed to file Exhibit 1(J)(A) as part of the public record herein. Said exhibit, as set forth above, was removed from Armstrong's evidence submitted in opposition to the pending summary adjudication motions because of my deference to Mr. Wilson's request. Despite the fact that I was true to my word and that said OT materials were removed from Armstrong's submission, Scientology has chosen to bring this ex parte application wherein it has claimed that I am a liar. In light of that bad faith, the fact that such materials are in the public domain and that Armstrong needs them for the adjudication of the pending motions, I hereby request permission to file the same. A true and correct copy thereof is attached hereto as Exhibit C.

I hereby declare the foregoing is true and correct under penalty of perjury pursuant to the laws of the State of California. Executed on September 20, 1995 at San Anselmo, California.

FORD GREENE

PUBLISH

UNITED STATES DISTRICT COURT
DENVER, COLORADO
SEP 15 1995
JAMES R. MANSPEAKER
CLERK
BY DEP. CLERK

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 95-B-2143

RELIGIOUS TECHNOLOGY CENTER, a California non-profit corporation,

Plaintiff,

v.

F.A.C.T.NET, INC., a Colorado corporation: LAWRENCE WOLLERSHEIM, an individual; and ROBERT PENNY, an individual,

Defendant.

MEMORANDUM OPINION AND ORDER

KANE, J.

On August 21, 1995 Religious Technology Center ("RTC"), a California non-profit corporation, filed a verified complaint against Lawrence Wollersheim, Robert Penny and F.A.C.T.NET, Inc. ("FACTNET") for injunctive relief and damages for copyright infringement (17 U.S.C. § 501) and trade secrets misappropriation (Colo. Rev. Stat. § 7-74-102 to -110 (1986)).

Jurisdiction is based on 28 U.S.C. §§ 1331 and 1338(a) and (b) in that this is an action for copyright infringement under 17 U.S.C. § 501. Supplemental jurisdiction exists under 28 U.S.C. § 1367 over the trade secrets misappropriation claim, which RTC alleges arises out of the same transaction and occurrences.

Before me is RTC's motion for preliminary injunction.

I. Background.

RTC is one of the formal entities constituting the Church of Scientology (the "Church") founded by L. Ron Hubbard. FACTNET is a non-profit educational and charitable corporation registered and

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with its principle place of business in Colorado. Wollersheim and Penny are former Scientologists.[1] Wollersheim serves as President of the Board and Executive Director of FACTNET and Penny is a member of the FACTNET Board.

Defendants, operating on minimal financial resources, maintain a library and archive information concerning, inter alia, an ongoing public controversy regarding the Church's status as a religious tax exempt organization and charges that its practices involve harmful psychological coercion which has resulted in mental and physical harm to a significant number of its adherents.

Much of the information maintained by Defendants is made available publicly on FACTNET's Bulletin Board Service on the international computer network known as the Internet.[2] Other data is stored in a private portion of the FACTNET library which includes information concerning and provided by former Scientologists and their families.

RTC alleges Defendants have placed on the Internet unauthorized copies of unpublished religious works called OT materials, often referred to as "Advanced Technology." They list

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[1] The Church of Scientology and Wollersheim have opposed each other in litigation in various cases. In Wollersheim v. Church of Scientology, 15 Cal. App. 4th 1476 (Cal. Ct. App. 1992), an action in which Wollersheim alleged intentional and negligent infliction of emotional injury, the court affirmed its prior judgment in his favor as to the cause of action for intentional infliction with the exception of the $30 million damage award which it reduced to $500,000 for compensatory damage and $2 million for punitive damages. A final judgment which the evidence discloses remains unpaid.

[2] A bulletin board service ("BBS") usually requires users to dial in through telephone lines to access specialized information or services.

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the materials in issue ("the Works") in Exhibit "A" to the complaint.

RTC maintains it has the exclusive license to the Works. It asserts the materials consist of unpublished works of L. Ron Hubbard, the founder of the Church of Scientology. The Church only permits access to each of the works to members who have attained the proper level of spiritual enlightenment and made the requisite financial contributions. Such access is through a highly controlled system known as "auditing" involving supervision by a senior member of the Church. RTC claims the Works are available at only seven sites around the world and are never removed from these locations.

Defendants maintain any of the Works in its possession were obtained lawfully and are maintained in the non-public section of Defendants' library. Wollersheim has provided consulting services to lawyers representing clients in litigation involving the Church but denied making copies of the Works for this purpose. Defendants assert they have not posted any of the Works to the Internet for public availability and that it is their policy not to do so.

According to Wollersheim, the only deviation from this policy was between August 1 and August 3, 1995, when, due to miscommunication, Arnold P. Lerma, a FACTNET director posted some of the Works to the Internet. The portions of the Works published by Lerma had been part of an unsealed public court record in the Central District of California in Church of Scientology

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International v. Fishman, No. CV 91-6426 HLH (Tx) C.D. Cal.[3] These materials were attached to an affidavit filed by Fishman in that case. Wollersheim testified he received a copy of the affidavit from Fishman's counsel in the course of the consulting services Wollersheim provided in that case.

On August 15, 1995, Defendants posted a message to a newsgroup on the Internet claiming Lerma had acted on their behalf and with their endorsement and that they stood behind his actions.

II. Procedural History.

On August 21, 1995, Judge Babcock, ruling on ex parte motions, granted a temporary restraining order against Defendants. His order restrained Defendants from the unauthorized copying, use or reproduction of the Works identified in Exhibit "A" to the complaint or any other part of the works that are part of the Advanced Technology, in particular the copying into "any computer data base information service, storage facility, archives, or other computerized network or facility." The order further restrained the destruction or concealing by Defendants of such Works in their possession. It also required RTC to file a bond in the amount of $10,000 with the court forthwith. Judge Babcock set a hearing for a preliminary injunction before me on August 25, 1995 due to his being unavailable on that date.

---

[3] On August 11, 1995, RTC sued Lerma in the United States District Court for the Eastern District of Virginia for copyright infringement and trade secret misappropriation in Religious Technology Center v. Lerma, No. 95-1107-A. On August 11, 1995, RTC obtained a restraining order and order of seizure and impoundment against Lerma. On August 22, 1995, RTC amended its complaint in that case, adding the Washington Post and two of its reporters as defendants. On August 30, 1995, that court denied RTC's motion seeking to enjoin the Post defendants from copying, disclosing, using, displaying, or reproducing Advanced Technology materials which it had obtained from the same public court file.

Judge Babcock ordered Defendants to deliver the infringing articles within their possession and control into the custody of RTC's counsel. In this regard, he issued a writ of seizure and ordered a portion of the court file sealed until execution of the writ of seizure. Judge Babcock also granted RTC's motion for expedited discovery, ordering the depositions of all three Defendants to take place on August 23, 1995.

On August 22, 1995, extensive materials, including computer equipment, computer software and voluminous documents were seized from Defendants' premises pursuant to the writ. They were placed in the custody of RTC's counsel who proceeded to search for allegedly infringing materials.

On August 23, 1995, Defendants filed motions for a protective order, for temporary stay of expedited discovery and to require immediate delivery of confidential, proprietary, and privileged documents belonging to Defendants to their counsel of record, Thomas B. Kelley. RTC filed an opposition to the motion for a stay.

On August 24, 1995 I ordered an extension of the time for taking the depositions of Defendants and an extension of the restraining order until September 8, 1995 when the preliminary injunction hearing commenced. On August 25, 1995 I ordered Defendant's counsel or his representative be allowed to be present while Plaintiff's counsel searched the impounded evidence. I further ordered any items to which Defendants' might claim privilege to be segregated from the materials impounded and handed over to the court.

The preliminary injunction hearing took place before me on September 8, 11, and 12, 1995. At the termination thereof, I issued an oral ruling. I denied RTC's request for a preliminary injunction and ordered RTC to return and restore to the Defendants all seized materials. I ordered Defendants to maintain the status quo as to the possession of all copyrighted materials at issue in the case and restricted each of Defendants to making only fair use of the materials. I reserved the right to clarify my oral order by way of a written opinion. This is that opinion.

III. Preliminary Injunction.

I have authority to issue a preliminary injunction under Federal Rule of Civil Procedure 65. In addition, the Copyright Act specifically authorizes me to grant a preliminary injunction "on such terms as [I] may deem reasonable to prevent or restrain infringement of a copyright." 17 U.S.C. § 502. The Colorado Uniform Trade Secrets Act similarly grants me the power to grant injunctive relief "to prevent or restrain actual or threatened misappropriation of a trade secret."

A preliminary injunction is an extraordinary remedy providing the potential for considerable harm yet its emergency nature does not afford the court the usual degree of careful consideration afforded by the deliberative processes of a trial. As a consequence, the issuance of such an injunction, like the power of contempt, is one which is at best used sparingly, if at all.

Moreover, the very purpose of an injunction is to preserve the status quo ante. That is a rather elegant piece of Latin which means the last existing state of peaceable, noncontested conditions which preceded the pending controversy. I will not dwell on this, but it is helpful to observe that our legal forefathers were not fools; the complete phrase is status quo ante bellum which literally means "the state of things before the war began."

Given this purpose and the caution the law prescribes there are four basic considerations or findings which must be made before an injunction can issue. These same four factors likewise assist in determining the scope of the injunction and the conditions which attach to it.

A party seeking injunctive relief must establish:

> (1) it will suffer irreparable injury unless the injunction issues;
>
> (2) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party;
>
> (3) the injunction would not be adverse to the public interest; and
>
> (4) substantial likelihood that the movant will eventually prevail on the merits.

Walmer v. United States Dep't of Defense, 52 F.3d 851, 854 (10th Cir. 1995). The Tenth Circuit has adopted a modified interpretation of the fourth "likelihood of success" element. Id. "If the movant has satisfied the first three requirements for a preliminary injunction, the movant may establish likelihood of success by showing questions going to the merits so serious, substantial, difficult and doubtful, as to make the issues ripe for litigation and deserving of more deliberative investigation." Id. This modified test applies, however, only where the first three requirements are satisfied.

Similarly, the less rigorous test for injunctive relief sometimes employed in copyright cases is only applicable where the plaintiff has made a prima facie showing of infringement. See, e.g., Financial Control Assoc's v. Equity Builders, Inc., 799 F. Supp. 1103, 1113 (D. Kan. 1992); 3 Melville B. Nimmer & David Nimmer, Nimmer on Copyright § 14.06[A] (1995).

The circumstances of this case warrant consideration and balancing of all four factors.

A. Substantial Likelihood of Success on the Merits.

1. Copyright Infringement Claim.

RTC contends it will succeed on the merits of its claims for copyright infringement because it owns a valid copyright and the copyrighted work was copied by Defendants without its authorization.

To prevail in a copyright infringement action, a plaintiff must prove (1) ownership of a valid copyright and (2) defendant copied, "protected components of the copyrighted material." Gates Rubber Co. v. Bando Chemical Indus., Ltd., 9 F.3d 823, 831 (10th Cir. 1993). If a certificate of registration in accordance with 17 U.S.C. § 410(c) has been obtained, there is a presumption in favor of the plaintiff that a valid copyright exits. Id. at 832. The defendant then has the burden of overcoming this presumption. Id.

RTC claims it has certificates of registration for the Works, is their exclusive licensee and is entitled to protect them as if it were the original holder of the copyrights. At the outset of the preliminary injunction hearing, Defendants' counsel stipulated only for the purposes of this proceeding that the Works were originated by L. Ron Hubbard and that RTC has a valid title to the copyright in the Works.

Once a plaintiff shows it holds a valid copyright, it must then prove the defendant unlawfully appropriated some protected portions of the copyrighted work at issue. Id. This question breaks down into two separate inquiries:

> 1) [W]hether the defendant, as a factual matter, copied portions of the plaintiff's [writings]; and 2) whether, as a mixed issue of fact and law, those elements of the [writings] that have been copied are protected expression and of such importance to the copied work that the appropriation is actionable.

Id. In Gates Rubber the court noted that the inquiry does not end with a finding that the defendant copied the plaintiff's materials. "Liability for copyright infringement will only attach where protected elements of a copyrighted work are copied." Id. at 833. The Copyright Act provides:

> In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

17 U.S.C. § 102(b). The 1976 House Report noted copyright protection does not preclude others from using the ideas or

information revealed by the author's work, rather it refers only to the expression of the work adopted by the author. H.R. Rep. No. 1476, 94th Cong., 2d Sess. 57 (1976), reprinted in 17 U.S.C.A § 102 app. at 17 (1976)).

RTC asserts Defendants themselves and through others directly copied the copyrighted Works. It maintains Defendants duplicated portions of the Advanced Technology materials onto a newsgroup[4] on the Internet and onto a Web site,[5] making them accessible to Internet subscribers. These subscribers could then download the works onto their own computers and have personal copies.

RTC additionally claims Defendants provided Arnaldo Lerma with copies of the materials at issue. Lerma ultimately posted these copies onto the Internet. RTC claims the act of providing Lerma with the copies constitutes contributory copyright infringement.

The evidence showed, however, that, apart from the Lerma posting, the only copying of the Works by Defendants was scanning them onto their computer and placing them in the private section of their library without making them available to the public over the Internet or otherwise. Copying of this sort by Defendants falls within the well established limitation on the exclusive right of copyright ownership recognized in the Copyright Act, 17 U.S.C § 107.

---

[4] A "newsgroup" is an electronic discussion group, serving as a bulletin board for users to post universally accessible messages, and to read and reply to those from others.

[5] World Wide Web is a network of computers on the Internet that maintains documents users can read and transfer with a number of programs.

Under this limitation, "the fair use of a copyrighted work . . . for purposes such as criticism, comment, news reporting, teaching . . . scholarship, or research, is not an infringement of copyright." 17 U.S.C.A. § 107. The Copyright Act lists four factors for consideration in determining whether a particular use made of a work is fair use:

> (1) the purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes;
>
> (2) the nature of the copyrighted work;
>
> (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
>
> (4) the effect of the use upon the potential market for or value of the copyrighted work.

Id.

"Fair use" is a factual determination. Harper & Row, Publishers, Inc. v. Nation Enterprises, 471 U.S. 539, 549 (1985). Each fact must be assessed in light of the total circumstances of the case and then a conclusion can be made as to whether the doctrine applies.

In Harper & Row, a magazine editor obtained a copy of a copyrighted manuscript which he knew he was not authorized to publish. In an attempt to get a "scoop" on the magazine that had the rights to publish the piece, he published excerpts from it. The Court found for the copyright holders, determining on a factor by factor basis that there was no valid fair use on the part of the defendant. the Court held the questioned publication's effect on the market is the "single most important element of fair use." Id.

at 566.

Even if, as RTC maintains, the Works have not been published, the concerns of the Court in Harper & Row do not apply here. Defendants' use of the materials was not with the intention of depriving the planned publication of its full impact. Further, no evidence was presented as to the effect of the Defendants' copying of the Works upon the potential market for them.[6]

The evidence showed the Works are esoteric in nature and are delivered to certain followers by advanced Scientologists known as "auditors" as part of an elaborate system of instruction. The only financial harm RTC would suffer would be if followers were to forsake the Church's didactic methodology in favor of self instruction through the Works copied by Defendants. There was no suggestion, let alone evidence, of this potential for financial loss to the Church.[7]

---

[6] This case is distinguishable from Bridge Publications, Inc. v. Vien, 827 F.Supp. 629 (S.D. Cal. 1993), appeal reinstated and transferred, 53 F.3d 344 (Fed. Cir. (Cal.) 1994). The Vien court held there was a copyright infringement and fair use did not apply. In that case, as here, an affiliate of the Church sued to enjoin the use of copyrighted works. There, however, the defendants were charging for classes that used the documents as part of their study. Id. at 632. The court found defendants used the materials for the same purposes as the holders of the copyright. Id. at 635. The court also found that there was a wholesale copying of the work and that this weighed heavily against fair use. Id. at 636. Finally, the Vien court found that because the defendant's use of the materials was substantially similar to that of the Church, there was an economic harm as demand for sale or distribution from the Church would diminish. Id.

[7] An argument that RTC may be harmed financially by Defendants' intended criticism of the Works through copying would not prevail. In a similar case, the Second Circuit ruled that economic harm from criticism is not actionable under copyright

The alleged copying by the Defendants was not of a commercial nature. Rather, it was made for non-profit purposes to advance understanding of issues concerning the Church which are the subject of ongoing public controversy.

RTC has not introduced the Works in their entirety into evidence to enable comparison of the amount and substantiality of the portion of the Works copied with each copyrighted work as a whole. Notably, however, even if a work is introduced in its entirety, the copying may nevertheless constitute fair use. See, e.g., Sony Corp. v. Universal City Studios, 464 U.S. 417, reh'g denied, 465 U.S. 1112 (1984); Rotbart v. O'Dwyer Co., 34 U.S.P.Q. 2d 1085 (S.D.N.Y. 1985).

Defendants maintain and the evidence does not refute that the Lerma postings to the Internet were made in the context of ongoing dialogue in the particular newsgroup to which they were posted. they form part of the topical debate concerning whether the Works are of substance or are perpetuated as part of systemic mind control.

No evidence was introduced showing a likelihood that a follower of the Church would consider the postings by Lerma as a market substitute for the Works. Nor did the evidence show that the postings were of a commercial nature or had any effect on the potential market for the works. As such, the postings may well be considered as having been made for the purposes of criticism,

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laws. New Era Publications Int'l v. Carol Publishing Group, 904 F.2d 152, 160 (2nd Cir.), cert. denied, 498 U.S. 921 (1990).

comment or research falling within the fair use doctrine.

At this preliminary stage of proceedings, I find RTC has not shown a substantial likelihood of success on the merits of its copyright claim.

2. Misappropriation of Trade Secrets Claim.

RTC claims Defendants have misappropriated its trade secrets by acquiring, disclosing and using portions of the Works without authorization. Such claim is governed by the Colorado Uniform Trade Secrets Act and is not preempted by federal copyright statutes. See Gates Rubber, 9 F.3d at 846-47.

Colorado defines trade secrets as:

> [T]he whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, improvement, confidential business or financial information, listing of names, addresses, or telephone numbers, or other information relating to any business or profession, which is secret and of value. To be a "trade secret" the owner thereof must have taken measures to prevent the secret from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

Colo. Rev. Stat. § 7-74-102(4) (1986).

What constitutes a trade secret is a question of fact for the trial court. Gates Rubber, 9 F.3d at 848. Colorado courts apply a number of factors in determining whether a trade secret exists. They include:

> 1) the extent to which the information is known outside the business;
>
> 2) the extent to which it is known to those inside the business, i.e., by the employees;
>
> 3) the precautions taken by the holder of the trade secret to guard the secrecy of the information;

> 4) the savings effected and the value to the holder in having the information as against competitors;
>
> 5) the amount of effort or money expended in obtaining and developing the information; and
>
> 6) the amount of time and expense it would take for others to acquire and duplicate the information.

Colorado Supply Co., Inc. v. Stewart, 797 P.2d 1303, 1306 (Colo.App. 1990), cert. denied, Oct. 7, 1991.

Despite RTC and the Church's elaborate and ardent measures to maintain the secrecy of the Works, they have come into the public domain by numerous means. RTC's assertion that the only way in which the materials have escaped its control was through two thefts in Denmark and England was not supported by the evidence. A former senior Scientology official testified to ongoing difficulties the Church incurred in keeping the Works secret, including members losing materials in their possession. The evidence also showed portions of the Works have been made available on the Internet through persons other than Lerma, with the potential for downloading by countless users.

The Works posted by Lerma were publicly available as part of an unsealed public court record in the Central District of California in Church of Scientology International v. Fishman, No. CV 91-6426 HLH (Tx), C.D. Cal. Wollersheim testified copies of the Works in his possession were sent to him by an attorney representing defendants in that case for whom he had provided consulting services.

In August 1995, reporters of the Washington Post obtained copies of the Works from the unsealed Fishman file. The newspaper's publication of portions of the materials prompted RTC to request injunctive relief in Religious Technology Center v. Lerma, Civil Action No. 95-1107-A (E.D. Va.). On August 30, 1995, that court found the materials had escaped into the public domain and onto the Internet and that Lerma was not their only source on the Internet. Id., slip op. at 14-15 (E.D. Va. Aug. 30, 1995). The court concluded RTC could not establish for the purpose of the preliminary injunction motion that the documents were "not generally known" as required by the Virginia statute.

In the course of the hearing before me, RTC changed its position with regard to what materials constitute the purported trade secrets. At the outset, RTC maintained the entire Works were trade secrets. After evidence was heard indicating that the Works were in the public domain, RTC claimed that only portions of the Works, rather than the whole were secret. RTC's ambivalence and admission as to the non-secret nature of certain portions of the Works casts some doubt casts on the secret status of Works as a whole.

The evidence showed the Works are widely known outside of the Church through multiple sources. As such, they are not secret within the meaning of the Colorado statute and RTC has not shown a substantial likelihood of success on the merits of its trade secrets claim.

B. Irreparable harm.

I do not find RTC will suffer irreparable harm if the broad injunction sought is not granted. There has been no showing that

RTC has lost nor will lose competitive advantage through Defendants' fair use of the Works, nor that such use has been for commercial purpose.

RTC claims use of the materials impedes its right to exercise its religious belief that the materials must be kept secret. I am not persuaded that a denial of the injunction sought will deprive followers of the Church of their freedom to exercise their religious beliefs. RTC effectively requests that I advance its religion at the expense of Defendants' lawful rights to use the materials for the purposes of criticism and research. The United States Constitution, common law and the Copyright Act preclude me from doing so.

C. Balancing of Hardships.

The evidence does not reflect that the threatened injury to RTC outweighs the damage the broad injunction sought may cause the Defendants. Such relief would effectively pull the plug on Defendants' electronic library, infringe not only on their rights of criticism and research but be the death knell of FACTNET. Any threatened injury to RTC is outweighed by this potentially devastating hardship to Defendants.

D. Public Interest.

Public interest lies with the free exchange of dialogue on matters of public concern. The injunction sought would silence the Defendants as participants in an ongoing debate involving matters of significant public controversy. Relief of this kind does not serve the public interest.

IV. Conclusion.

Having weighed all the relevant factors, I conclude RTC has not shown a substantial likelihood of success on the merits and the balance of harms weighs in favor of Defendants. Accordingly,

IT IS ORDERED THAT Plaintiff's motion for preliminary injunction is DENIED;

IT IS FURTHER ORDERED THAT Plaintiff is to return and restore to Defendants immediately and at Plaintiff's expense all seized materials in the condition they were when taken and to the precise places from which they were taken;

IT IS FURTHER ORDERED THAT Defendants are to maintain the status quo as to their possession of all copyrighted materials at issue in this case and are restricted to making only fair use thereof. Defendants are prohibited from making any additional copies of the materials or transferring them in any manner or publicizing them other than in the context of fair use.

Dated this 15th day of September, 1995 at Denver, Colorado.

JOHN L. KANE, JR.
U.S. SENIOR DISTRICT COURT JUDGE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
JAMES R. MANSPEAKER, CLERK
U.S. Courthouse
1929 Stout Street, C-145
Denver, CO 80294
(303) 844-3433

Date: September 15, 1995

Case No. 95-B-2143

The undersigned hereby certifies that on the above date a true and correct copy of the preceding **MEMORANDUM OPINION AND ORDER** signed by Judge John L. Kane, Jr. on **September 15, 1995** was mailed to the following:

Todd P. Blakely, Esq.
Robert R. Brunelli, Esq.
1700 Lincoln St. Suite 3500
Denver, CO 80203

Judge Lewis Babcock

Helena K. Kobrin
7629 Fulton Avenue
North Hollywood, CA 91605

Thomas B. Kelley, Esq.
Natalie Hanlon-Leh, Esq.
370 17th Street, Suite 2500
Denver, CO 80202-4004

Earle Coley, Esq.
21 Custom House
Boston, MA 02110

JAMES R. MANSPEAKER, CLERK
By: N. Hatcher
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

15 [illegible]

RELIGIOUS TECHNOLOGY CENTER)
Plaintiff,)
v.) Civil Action No.95-1107-A
ARNALDO PAGLIARINA LERMA,)
DIGITAL GATEWAY SYSTEMS,)
THE WASHINGTON POST,)
MARC FISHER, and)
RICHARD LEIBY,)
Defendants.)

ORDER

For the reasons stated in open Court, to be further developed in a written opinion to be issued,

Plaintiff Religious Technology Center ("RTC")'s Motion for Reconsideration and Rehearing and

Motion for a Preliminary Injunction Against Defendant Lerma are DENIED.

Defendant Lerma's Motion to Vacate the Writ of Seizure and Order for Impoundment is GRANTED and it is hereby

ORDERED that RTC shall immediately return and restore to Defendant Lerma all seized materials in their exact original condition. This includes both Lerma's hard drives and all floppy discs; and it is further

ORDERED that Defendant Lerma shall maintain the status quo as to possession of all the allegedly copyrighted materials at issue in this case and is restricted to employing them only in a fair use capacity. Lerma and his counsel are specifically prohibited from making any additional copies of the materials or transferring them in any manner or publicizing them other than in the context of fair use.

This action moots the issue of increased bond relating to the seizure, so Defendant Lerma's Motion to Increase Bond is DENIED.

Plaintiff RTC's Motions for Provisional Stays Pending Appeal to the Fourth Circuit are DENIED.

The Clerk is directed to forward copies of this Order to counsel of record.

Entered this 15th day of September, 1995.

Leonie M. Brinkema

Leonie M. Brinkema
United States District Judge

Alexandria, Virginia

Exhibit C

is under seal

in separate envelope

Andrew H. Wilson, SBN #063209
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Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

FILED
SEP 20 1995
HOWARD HANSON
MARIN COUNTY CLERK
By J. NAUE Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	CASE NO. 157 680 [CONSOLIDATED] DECLARATION OF ANDREW H. WILSON IN SUPPORT OF CHURCH OF SCIENTOLOGY INTERNATIONAL'S EX PARTE APPLICATION FOR AN ORDER STRIKING ARMSTRONG'S EVIDENCE IN SUPPORT OF OPPOSITION TO PLAINTIFF'S PENDING MOTIONS FOR SUMMARY ADJUDICATION, OR, IN THE ALTERNATIVE, FOR AN ORDER SEALING THE FOLLOWING EXHIBITS: VOL. VI, EX. 1(J)(A), EX. 1(J)(M); VOL. VII, EX. 1(J)(M); VOL. IX, EX. 2(A), 2(C), 3(B), 5(B), AND 7(A); REQUEST FOR SANCTIONS [C.C.P. § 437C(i)] DATE: September 19, 1995 TIME: 9:30 a.m. DEPT: 1 TRIAL DATE: Not set

ANDREW H. WILSON deposes and says:

1. My name is Andrew H. Wilson and I am one of the attorneys responsible for the representation of the Church of Scientology International in this action. I have personal knowledge of the facts set forth in this Declaration and could competently testify thereto if called as a witness.

2. On September 15, 1995, Ford Greene brought a second ex parte application for leave to file supplemental opposition to plaintiff's pending summary adjudication motions. He indicated that he intended to file a memeorandum of points and authorities. I asked him if he intended to file any confidential materials belonging to my clients. Armstrong had attempted to do so in this Court before, and had also attempted to do so in the bankruptcy court. Both this Court and the bankruptcy Court had ordered Armstrong's offerings stricken, but only after the Church had the expense of bringing a motion. Greene assured me that his filing would not include any confidential materials.

3. On September 19, this Court ordered Mr. Greene to serve and file his additional opposing papers no later than 10:00 a.m. on September 18, 1995.

4. On September 18, I received a large box from Armstrong containing 10 volumes of evidence in addition to the promised memorandum of points and authorities. I quickly ascertained that the "evidence" included some documents which my client has informed me are confidential scripture, protected as trade secrets.

5. At approximately 11:45 a.m., I contacted the Marin

County Superior Court clerk's office. I was told that Armstrong had not yet filed anything with the Court. I asked the clerks to please be sure that the materials were treated as confidential when they arrived, until I was able to make this motion.

6. I then called Mr. Greene, and left a message on his machine notifying him that I intended to bring this application, and that I considered the filing of confidential materials, after his assurances that they would not be filed, to be in bad faith.

7. I checked my voice mail on the evening of September 18. There was a message from Mr. Greene. He stated that he would appear for the ex parte, and that he did not understand what the problem was, because he had instructed Armstrong to remove the ocnfidential materials before serving and filing the papers.

8. I worked with my co-counsel, Laurie Bartilson, in the preparation of this ex parte application, and in attending the hearing made necessary by Armstrong's bad faith filing. My normal billing rate is $2~~25~~45 per hour, and I will have expended 2 hours in preparing for and attending the hearing on this application. Ms. Bartilson's normal billing rate is $200 per hour, and she has expended 5 hours in the preparation of the papers necessary and attending the hearing on this matter. In

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addition, Ms. Bartilson had the expense of hotel, air fare, and car rental to attend today's hearing in the amount of $340.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 19th day of September, 1995 at San Rafael, California.

Andrew H. Wilson

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Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

FILED
SEP 2 0 1995
HOWARD HANSON
MARIN COUNTY CLERK
By J. NAUE Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	CASE NO. 157 680 [CONSOLIDATED] CHURCH OF SCIENTOLOGY INTERNATIONAL'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EX PARTE APPLICATION FOR AN ORDER STRIKING ARMSTRONG'S EVIDENCE IN SUPPORT OF OPPOSITION TO PLAINTIFF'S PENDING MOTIONS FOR SUMMARY ADJUDICATION, OR, IN THE ALTERNATIVE, FOR AN ORDER SEALING THE FOLLOWING EXHIBITS: VOL. VI, EX. 1(J)(A), EX. 1(J)(M); VOL. VII, EX. 1(J)(M); VOL. IX, EX. 2(A), 2(C), 3(B), 5(B), AND 7(A); REQUEST FOR SANCTIONS [C.C.P. § 437c(i)] DATE: September 19, 1995 TIME: 9:30 a.m. DEPT: 1 TRIAL DATE: None set

I.

INTRODUCTION

This application seeks to strike **ten volumes** of evidence late-filed by defendant Gerald Armstrong in support of his opposition to plaintiff's pending motions for summary adjudication or, in the alternative, the sealing of 9 exhibits which contain or consist of plaintiff's confidential scriptures (hereinafter, "the Confidential Exhibits").[1] The ten volumes of exhibits were filed with this Court after the imposed deadline of 10:00 a.m. on Monday, September 18, had passed. [Declaration of Andrew H. Wilson] They consist of a potpourri of declarations previously filed by Armstrong; documents from other cases, some as old as the 1970's; third-party, hearsay declarations; and unabashed argument by Armstrong. They have in common three things: (1) they offer no competent, relevant evidence as to anything placed at issue by the summary adjudication motions; (2) they consist of hate-filled, false accusations of the "badness" of the plaintiff and its faith; and (3) they are offered to support the (non-litigable) proposition that God is on Gerry Armstrong's side. The exhibits in question are not referenced at all in Armstrong's simultaneously-filed memorandum, and they contribute absolutely nothing relevant to the determination of the pending summary adjudication motions.

In the event that the Court does not simply strike the evidence outright, plaintiff seeks to have 9 of the exhibits placed under seal pursuant to Civil Code § 3426.5. The exhibits, identified in the Motion as the "Confidential Exhibits," are altered, copied or re-created versions of portions of Scientology's "Advanced Technology," or descriptions of the same: highly sacred scriptures which are maintained by plaintiff as confidential trade secrets. They are not relevant to any matters at issue in the case, and were filed by Armstrong to harass plaintiff and create confusion and delay. They have already been ordered stricken once by this Court, and once by the bankruptcy Court. [Wilson Dec.] As this Court held in September, 1994, "The religious beliefs of the parties are irrelevant in determining the issues in this action."

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[1] The exhibits which plaintiff seeks to seal are: VOL. VI, EX. 1(J)(A), EX. 1(J)(M); VOL. VII, EX. 1(J)(M); VOL. IX, EX. 2(A), 2(C), 3(B), 5(B), AND 7(A).

Plaintiff requests that, if this Court does not strike the evidence in its entirety, that the Court maintain the Confidential Exhibits under seal. Plaintiff also requests that sanctions be imposed against Armstrong, in light of his obvious and calculated bad faith re-filing of the Confidential Exhibits.

II.

THE EVIDENCE WAS NOT FILED OR SERVED IN A TIMELY FASHION, AND OFFERS NO EVIDENCE THAT IS RELEVANT TO PLAINTIFF'S SUMMARY ADJUDICATION MOTION

Code of Civil Procedure § 437c(b) provides in relevant part that, "Any opposition to [a motion for summary adjudication] shall be served and filed not less than 14 days preceding the noticed or continued date of the hearing, unless the court for good cause orders otherwise."

Plaintiff's summary adjudication motions have been pending with this Court since February, 1995. They were fully briefed by April, 1995, and this Court was ready to rule. Armstrong had delayed the hearing of the motions for months by firing his attorney (Mr. Greene), and then obtaining extensions of time in which to respond. Apparently still unhappy with his defense, Armstrong further delayed the hearings by filing for bankruptcy on the day this Court was due to issue its tentative ruling. Now that his bankruptcy ploy has failed, Armstrong has miraculously obtained the funds to re-hire Mr. Greene.

Nonetheless, this Court generously permitted Armstrong to file still additional papers with the Court, and to do so fewer than 14 days before the re-scheduled hearing. However, Armstrong's counsel asserted that he intended only to file a memorandum of points and authorities, which Armstrong had not filed previously. He was ordered to serve and file it by 10:00 a.m. on September 18.

Armstrong did not file anything on the morning to September 18 [Wilson Dec.]. Instead, he served on plaintiff's counsel **ten volumes** of additional, extraneous "evidence," much of which had already been filed in response to other pleadings in this case, and some of which had previously been stricken by this Court.

Moreover, the vast majority of the "evidence" is not mentioned by Armstrong's attorney anywhere in the opposing memorandum. Instead, the documents focus on Armstrong's religious beliefs and what he contends are the religious beliefs of plaintiff.[2] However, this Court has already held that the religious beliefs of the parties are not relevant to this action. For this reason alone, the evidence should be stricken.

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[2] For example, Armstrong devotes a substantial portion of his assorted declarations to (1) insisting that Scientology theology preaches that God does not exist (it does not); (2) arguing that Scientology is not a religion but "idolatry" (all courts and even (continued...)

The exhibits which Armstrong alone purports to authenticate, are also inadmissible as evidence. C.C.P. § 437c(d) provides, in relevant part, that

> Supporting and opposing affidavits or declarations shall be made by any person on personal knowledge, shall set forth admissible evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavits or declarations.

Armstrong's authenticating declaration, exhibit 1, is virtually a word-processed expansion of the same declaration which he offered to this Court in January, and which this Court ordered stricken. Armstrong does not aver that his declaration [Exhibit 1] is made on personal knowledge, which the statute plainly requires. Further, much of the declaration is hearsay -- Armstrong's testimony as to what God purportedly said to him. Finally, the declaration lacks any showing that Armstrong is competent to testify about the matters contained in the declaration. If anything, the declaration casts serious doubt on whether Armstrong is competent as a witness.

In short, the evidence was late-filed, beyond the time permitted by the Court, and no good cause exists to permit it to be considered. It should, accordingly, be stricken.

III.

IN THE ALTERNATIVE, THE COURT SHOULD SEAL THE

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[2] (...continued)
the IRS disagree with that characterization); and (3) proclaiming that he alone understands and is following Scientology's creed. None of these matters has any bearing on whether or not Armstrong breached his settlement agreement with plaintiff.

CONFIDENTIAL EXHIBITS BECAUSE THEY ARE RE-CREATED VERSIONS OF PLAINTIFF'S TRADE SECRETS

Armstrong and other declarant claim that Exhibits 1(J)(A), 1(J)(M), 2(C), 3(B) and 5(B) are copies of "OT III" and/or "Upper Level" materials.[3] "Upper Level" scripture (known as the "Advanced Technology") is scripture which is the product of some of L. Ron Hubbard's advanced researches into the human spirit. The designation "OT III" stands for "Operating Thetan, Level 3," and is part of Scientology's Advanced Technology.[4] Scientology theology provides that the Advanced Technology is kept confidential, and disclosed to Scientology parishioners only when those parishioners have completed the earlier necessary steps in Scientology's path to greater spiritual awareness. The Confidential Exhibits are re-created versions of trade secrets that are kept confidential by the Church, and that must not be kept in the Court's public files.

The California Civil Code provides that trade secrets, or even matters alleged to be trade secrets, must be protected while they are involved in litigation:

> In an action under this title, a court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include granting protective orders in connection with discovery proceedings, holding in-camera hearings, sealing the records of the

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[3] Exhibits 2(A) and 7(A) contain lengthy descriptions of the confidential works, including some trade secrets.

[4] Scientologists refer to the person himself, the being, as a "thetan." The definition of the state of "Operating Thetan" is "knowing and willing cause over life, thought, matter, energy, space and time." To be permitted access to the confidential Advanced Technology, through which a person achieves the state of Operating Thetan, the person must progress first through all the lower, gradient levels of Scientology religious counseling.

> action, and ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval.

Civil Code § 3426.5 (emphasis supplied).

Armstrong has filed the Confidential Exhibits in this Court's public files solely to harass plaintiff. He is well aware of plaintiff's interest in the documents as trade secrets. Indeed, the materials in question have been judicially recognized as trade secrets under Civil Code § 3426.1 in Bridge Publications Inc. v. Vien (S.D.Cal. 1993) 827 F.Supp. 629 at 633, citing Religious Technology Center v. Scott (9th Cir. 1989) 869 F.2d 1306, 1309-10 (holding that the Advanced Technology can be protectable as a trade secret).[5] The documents in Armstrong's Confidential Exhibits are re-creations of portions of Advanced Technology which the Vien court has already adjudicated to be trade secrets as a matter of law.

Armstrong's interjections of these materials into the Court's files is objectionable not merely because they are trade secrets, but also because a church has a generalized interest in maintaining confidentiality of internal documents both for itself and its parishioners. U.S. v. Hubbard (D.C.Cir. 1980) 650 F.2d 293, 306-07. The Confidential Exhibits are not the subject of this litigation. Armstrong's counsel, Mr. Greene, **acknowledged** this, and told plaintiff's counsel that he had instructed Armstrong not to file them. Armstrong did so anyway. Armstrong obviously has filed these documents intentionally only because he knows it will upset plaintiff's parishioners and staff. The Confidential Exhibits are or contain trade secrets, and if they are not stricken entirely by the Court, they at least should be placed under seal.

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[5] In Vien, the Court granted summary judgment for trade secret misappropriation, finding these confidential scriptures to be trade secrets as a matter of law. Id. at 633. The Vien court specifically recognized that the confidentiality and security requirements of Civil Code § 3426.1 had been met with respect to the Advanced Technology, and that it had independent economic value. 827 F.Supp. at 633, quoting Murdock v. Commonwealth of Pennsylvania (1943) 319 U.S. 105, 111, 63 S.Ct. 870, 874, 87 L.Ed. 1292; Cal. Civ. Code § 3426.1(d). While there is other litigation pending in several districts with respect to the trade secret status of these materials, the Vien case is the only case which has reached a final and binding judgment. In no case has a court failed to seal or strike the materials from the public record.

IV.

ARMSTRONG SHOULD BE SANCTIONED

Code of Civil Procedure Section 437c(i) provides in relevant part that,

> If the court determines at any time that any of the affidavits are presented in bad faith or solely for the purposes of delay, the court shall order the party presenting the affidavits to pay the other party the amount of the reasonable expenses which the filing of he affidavit caused the other party to incur.

Here, plaintiff's counsel, Mr. Wilson, discussed the matter of confidential exhibits with Mr. Greene. Armstrong had filed copies of confidential materials gratuitously in the past, and Mr. Wilson sought an assurance from Mr. Greene that no such documents would be a part of this intended filing. Mr. Greene gave Mr. Wilson that assurance. [Wilson Dec.] Had he not done so, Mr. Wilson would have sought an order from the Court preventing the filing of such documents, or, in the alternative, having them filed only under seal. [Id.] When Mr. Wilson received the evidence, and realized that it consisted entirely of irrelevant diatribes and confidential material, he gave Mr. Greene notice of this hearing. Mr. Greene responded with a voice mail message for Mr. Wilson which stated that he would appear for the hearing, and that **he did not understand what the problem was because he had instructed Armstrong to remove the confidential materials before serving and filing the papers.** [Id.] Thus, Armstrong's own attorney has admitted that the Confidential Exhibits are not relevant to any pending matter, and should not have been filed at all. Armstrong plainly served and filed them in bad faith, causing plaintiff to bring this motion at substantial expense. He should be sanctioned pursuant to C.C.P. § 437c(i).

IV.

CONCLUSION

The evidence filed by Armstrong is untimely, irrelevant, and seeks to expose plaintiff's trade secrets. Plaintiff asks this Court to strike the evidence or, in the alternative, place the Confidential Exhibits under a protective seal. Plaintiff also requests that Armstrong be sanctioned under C.C.P. § 437c(i).

Dated: September 19, 1995 Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

MOXON & BARTILSON

By: ______________________
Laurie J. Bartilson
Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of California, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Boulevard, Suite 2000, Hollywood, CA 90028.

On September 19, 1995, I served the foregoing documents described as CHURCH OF SCIENTOLOGY INTERNATIONAL'S EX PARTE APPLICATION FOR AN ORDER STRIKING ARMSTRONG'S EVIDENCE IN SUPPORT OF OPPOSITION TO PLAINTIFF'S PENDING MOTIONS FOR SUMMARY ADJUDICATION, OR, IN THE ALTERNATIVE, FOR AN ORDER SEALING THE FOLLOWING EXHIBITS: VOL. VI, EX. 1(J)(A), EX. 1(J)(M); VOL. VII, EX. 1(J)(M); VOL. IX, EX. 2(A), 2(C), 3(B), 5(B), AND 7(A); REQUEST FOR SANCTIONS [C.C.P. § 437C(i)]; CHURCH OF SCIENTOLOGY INTERNATIONAL'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EX PARTE APPLICATION FOR AN ORDER STRIKING ARMSTRONG'S EVIDENCE IN SUPPORT OF OPPOSITION TO PLAINTIFF'S PENDING MOTIONS FOR SUMMARY ADJUDICATION, OR, IN THE ALTERNATIVE, FOR AN ORDER SEALING THE FOLLOWING EXHIBITS: VOL. VI, EX. 1(J)(A), EX. 1(J)(M); VOL. VII, EX. 1(J)(M); VOL. IX, EX. 2(A), 2(C), 3(B), 5(B), AND 7(A); REQUEST FOR SANCTIONS [C.C.P. § 437C(i)]; DECLARATION OF ANDREW H. WILSON IN SUPPORT OF CHURCH OF SCIENTOLOGY INTERNATIONAL'S EX PARTE APPLICATION FOR AN ORDER STRIKING ARMSTRONG'S EVIDENCE IN SUPPORT OF OPPOSITION TO PLAINTIFF'S PENDING MOTIONS FOR SUMMARY ADJUDICATION, OR, IN THE ALTERNATIVE, FOR AN ORDER SEALING THE FOLLOWING EXHIBITS: VOL. VI, EX. 1(J)(A), EX. 1(J)(M); VOL. VII, EX. 1(J)(M); VOL. IX, EX. 2(A), 2(C), 3(B), 5(B), AND 7(A); REQUEST FOR SANCTIONS [C.C.P. § 437C(i)]; and [PROPOSED] ORDER RE CHURCH OF SCIENTOLOGY INTERNATIONAL'S EX PARTE APPLICATION FOR AN ORDER STRIKING ARMSTRONG'S EVIDENCE IN SUPPORT OF OPPOSITION TO PLAINTIFF'S PENDING MOTIONS FOR SUMMARY ADJUDICATION, OR, IN THE ALTERNATIVE, FOR AN ORDER SEALING THE FOLLOWING EXHIBITS: VOL. VI, EX. 1(J)(A), EX. 1(J)(M); VOL. VII, EX. 1(J)(M); VOL. IX, EX. 2(A), 2(C), 3(B), 5(B), AND 7(A); REQUEST FOR SANCTIONS [C.C.P. § 437C(i)] on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] true copies thereof in sealed envelopes addressed as follows:

MICHAEL WALTON
700 Larkspur Landing Circle
Suite 120
Larkspur, CA 9493

[X] BY MAIL

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit;

and by HAND SERVICE on Ford Greene, attorney for defendant Gerald Armstrong.

Executed on September 19, 1995, at San Rafael, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Laurie Battilson
Print or Type Name

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

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Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

FILED
SEP 20 1995
HOWARD HANSON
MARIN COUNTY CLERK
By ____ Deputy

#063400 09/20/95MOTN 14.00

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiff,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

CASE NO. 157 680

[CONSOLIDATED]

CHURCH OF SCIENTOLOGY INTERNATIONAL'S EX PARTE APPLICATION FOR AN ORDER STRIKING ARMSTRONG'S EVIDENCE IN SUPPORT OF OPPOSITION TO PLAINTIFF'S PENDING MOTIONS FOR SUMMARY ADJUDICATION, OR, IN THE ALTERNATIVE, FOR AN ORDER SEALING THE FOLLOWING EXHIBITS: VOL. VI, EX. 1(J)(A), EX. 1(J)(M); VOL. VII, EX. 1(J)(M); VOL. IX, EX. 2(A), 2(C), 3(B), 5(B), AND 7(A); REQUEST FOR SANCTIONS [C.C.P. § 437c(i)]

DATE: September 19, 1995
TIME: 9:30 a.m.
DEPT: 1

TRIAL DATE: None set

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 19, 1995, at 9:30 a.m., in Department 1 of the above-entitled Court, located at Hall of Justice, 3501 Civic Center Drive, San Rafael, California, plaintiff Church of Scientology International will and hereby does apply for an order:

(1) Striking Armstrong's **ten volumes** of Evidence In Opposition to Motions For Summary Adjudication, or, in the alternative,

(2) Sealing the following exhibits contained in that "evidence": Volume VI, Exhibits 1(J)(A), 1(J)(M); Volume VII, Exhibit 1(J)(M); Volume IX, Exhibits 2(A), 2(C), 3(B), 5(B), AND 7(A) ("the Confidential Exhibits").

Plaintiff will also seek sanctions against defendant Armstrong, pursuant to Code of Civil Procedure § 437c(i) for his bad faith filing of irrelevant and confidential material for the twin purposes of harassment and delay.

As grounds for this application, plaintiff states:

1. Defendant Armstrong sought and obtained leave to file and serve an additional opposition to plaintiff's motions by 10:00 a.m. on Monday, September 18, 1995, many months after the opposition papers were actually due. Nonetheless, the papers were not filed with this Court on the morning of September 18 as ordered;

2. Armstrong's counsel asserted that he wished merely to file with the Court a memorandum of points and authorities in opposition to the motions, which had not previously been filed.

However, Armstrong has filed, in addition to the memorandum, **ten volumes** of irrelevant documents, many of which have already been filed with this Court and/or stricken from its records;

3. Most of the exhibits offered by Armstrong are not referenced at all in the memorandum of points and authorities, and none offer any evidence which is probative of the pending motions. The volumes of exhibits appear to be simply yet another gratuitous effort on the part of Armstrong to convince the Court that he should prevail in this action because "God is on his side." As this Court has already held, however, "[t]he religious beliefs of the parties are irrelevant in determining the issues in this action";

4. Armstrong's counsel assured plaintiff's counsel that Armstrong would not attempt to re-file any of plaintiff's confidential materials, and has even stated that he instructed Armstrong not to file any of plaintiff's confidential documents. Nonetheless, Armstrong has included 9 exhibits in his filing which consist of altered, copied or re-created versions of highly sacred confidential scriptures which are always maintained confidential as a matter of Church doctrine and belief. Further, these materials are confidential trade secrets belonging to the Church, which Civil Code § 3426.5 provides shall be protected by such measures as sealing the files. Armstrong's inclusion of these documents in his filing is a clear demonstration that the "evidence" is filed in bad faith, and to delay resolution of plaintiff's long-pending motions.

This application is based this notice of motion, the attached Memorandum of Points and Authorities, the declaration of Andrew H. Wilson filed in support hereof, the records and files in this case and such other argument and evidence as may be adduced at or before the hearing on this application.

Dated: September 19, 1995 Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

MOXON & BARTILSON

By:
Laurie J. Bartilson

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL

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FORD GREENE, Bar # 107601

Attorney for Defendant
GERALD ARMSTRONG

(SPACE BELOW PROVIDED FOR FILING STAMP ONLY)

8599

FILED

SEP 20 1995

HOWARD HANSON
MARIN COUNTY CLERK
By J. Bankson, Deputy
J Bankson

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profitreligious corporation,

Plaintiff,

vs.

GERALD ARMSTRONG; MICHAEL WALTON; THE GERALD ARMSTRONG CORPORATION, a California for-profit corporation; DOES 1 through 100, inclusive,

Defendants.

No. 157 680

DECLARATION OF GERALD ARMSRONG IN OPPOSITION TO EX PARTE APPLICATION

ORIGINAL

8600

Declaration of Gerald Armstrong

I, Gerald Armstrong declare:

1. I understand that Scientology is claiming that two bulletins written by L. Ron Hubbard, "Routine 3 - Heaven" dated May 11, 1963 and "Resistive Cases - Former Therapy" dated September 23, 1968, authenticated by Hana Whitfield and Dennis Erlich in my Evidence in Opposition to Motions for Summary Adjudication. Vol.VIII, Exhibits 2 and 3 are "confidential Church scriptures which are protected trade secrets." Scientology will probably cite to the case of Bridge Publications Inc. v. Vien, (S.D.Cal.1993) 827 Fed.Supp.629 in support of its claim that "the materials in question have been judicially recognized as trade secrets." It is my understanding that they are not part of the materials considered by the Court in the Vien ruling.

2. Anticipating Scientology's claim that these bulletins are "secret," I had them authenticated by these people. I know at least five more people personally who possess these bulletins. They are not secret. The Report of the Board of Inquiry Into Scientology presented to both Houses of Parliament in Victoria, Australia in 1965, an excerpt from which is attached hereto as Exhibit A, quotes extensiveley from "Routine 3 - Heaven" at p. 150. This bulletin also contains the "Routing" to "Franchises," which means that it was distributed around the world to Scientology franchises, which are not respositories of Scientology's "OT" materials.

3. Both of these bulletins were available to me and were read and studied by me while in the Sea Organization in Hubbard's Flagship the "Apollo" from 1971 through 1975. They were also part of the materials available to and studied by persons

assigned to the Rehabilitation Project Force (RPF) to which I was assigned in 1976 through 1977 and in 1978, and which I supervised during those times. These bulletins are not part of what Scientology calls the "Upper Level" or "OT" materials. Scientology tries to keep them secret because of their anti-Christian content. Scientology's anti-Christian inner nature and teachings have been exposed and drawn considerable criticism in recent times.

4. Appended hereto as Exhibit B is a copy of "Resistive Cases - Former Therapy" dated September 23, 1968. Appended hereto as Exhibit C is a copy of "Resistive Cases - Former Therapy" dated November 25, 1971, and printed in Scientology in its public "Technical Volumes." The only changes between the two bulletins is that the later issue leaves out the language:

"Old Therapies include the 2000 yr ago plus or minus Aesculepian drug treatment (hillabore) which produced a convulsion and coma and in which the nut practitioner made ap as a God and "visited" the patient in a "dream." This outfit was all over the ancient world.

"Also the Christian Church used (and uses) implanting (with a squirrel version of the "7s"). These gangsters were the Nicomidians from lower Egypt who were chased out for criminal practices (implanting officials). They took over the Niocene Creed before the year zero, invented Christ (who comes from the Crucifixion in R6 75m years ago) and implanted their way to "power." The original Nicomidians date about 600 BC and people who were Christ data at 75 m years ago."

There is nothing in this attack on Christianity that makes these statements "trade secrets."

5. Appended hereto as Exhibit D is an excerpt from Scientology's promotional book What is Scientology? In it Scientology claims compatiibility with Christianity. In its "secret" teachings, it claims that Christ is an "implant." I believe that this hipocrisy is central to Scientology's unrelenting attack on me, and is a key issue in this case. Thus the bulletins are included as evidence.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Anselmo, California, on September 19, 1995.

8603

1965

VICTORIA

REPORT

OF

THE BOARD OF INQUIRY INTO SCIENTOLOGY

Presented to both Houses of Parliament by command of His Excellency the Governor

By Authority:
A. C. BROOKS, GOVERNMENT PRINTER, MELBOURNE

No. 9.—9993/65—Price 13s. 3d. ($1.32)

CHAPTER 27

SCIENTOLOGY AND RELIGION

From time to time during the Inquiry the question arose as to whether the Board was concerned to investigate scientology theories on the basis that scientology was a religion and the theories and practices of scientology were religious beliefs and practices. The Board repeatedly stated that it was not some form of ecclesiastical or theological commission charged to investigate religious beliefs as such, and that it was not concerned to determine whether the beliefs that were held by scientologists were religious or otherwise. The Board was concerned to ascertain the scientology theories and practices so far as they were held and engaged in in Victoria, and its task was the same in that respect whether or not the theories and practices could properly be described as religious.

The Board was further concerned to investigate the manner in which these theories and practices, whether religious or not, operated in Victoria and their impact on the community, and whether or not benefit was being obtained by or harm was being done to members of the community by such practices. The Board made it clear that scientologists were quite entitled to believe whatever they wished—freedom of thought was their right—and it was immaterial that the Board might disagree with a very large part of scientology and regard it as nonsense and contrary to reason. Scientologists are, of course, free to disagree with the Board's conclusion as to the validity of scientology theories, and there are already indications that they will disagree—that is their right.

However, the carrying into practice of such theories by pernicious techniques from which grave harm results is quite a different matter. In this community, there are different faiths and their members are free to hold whatever beliefs they wish, though their creeds differ and are even in positive disagreement on various tenets. The adherents of scientology, if it be a religion, are entitled to the same freedom of belief, and they have the same freedom, even though it is not a religion. This, however, as the Board repeatedly pointed out, was not the question.

Those who claim that their beliefs constitute a religion cannot, under the cloak of such "religion", pursue a course which is evil and a danger to the mental health of the community. A group of people, by claiming that its particular religion requires the killing of human beings by way of sacrifice, does not obtain a licence to kill according to its creed. Neither are the adherents of scientology entitled to practise on others their "skills" and techniques which have deleterious effects upon their victims. Nor are they entitled to proselytize by calculated deception.

[The Board reiterates that the holding of beliefs is a private matter ; it may even be that the holding of certain scientology beliefs is, with some scientologists, a matter of conscience, though that would seem to be inconsistent with the general theme of scientology. What the Board is concerned to do, pursuant to its terms of reference, is to draw attention to the harm which has been done in the past by the practice of scientology, and the harm which will inevitably result in the future should scientology be allowed to continue to exploit and mentally ruin the anxious victims of its deception.

The foregoing observations apply on the assumption that scientology is a religion ; they are equally applicable should scientology as known, carried on, practised and applied in Victoria not be a religion. In fact, scientology is not a religion. Apart from an occasional reference to scientology as a religious brotherhood and a claim to have some affinity with Buddhism and other religions, no claim was made at the Inquiry, except forlornly in the final stages, that scientology as known, carried on, practised and applied in Victoria was a religion.

When the Inquiry began, the stated attitude of the HASI was that scientology was a science and not a religion. However, towards the end of the Inquiry, when it became apparent to the HASI that the practice of scientology in Victoria had been revealed in a very unfavourable light, and that it had no evidence with which to controvert the impressive body of expert evidence to the effect that it was dangerous to the mental health of the community, an attempt was belatedly made to present it as a religion. No evidence was tendered to that effect, but the complaint began to be made that scientologists were being persecuted because of their religious beliefs, and the suggestion was that bigotry was rampant. This change of front was merely laying the foundation for the eventual withdrawal of the HASI from the Inquiry, and is dealt with elsewhere in this Report.

Though scientology has not been, and is not, a religion, some early attempts were made in Victoria to exploit the favourable attitude which the community usually adopts towards ministers of religion and these attempts were along lines suggested by Hubbard. In the early years of scientology in Victoria, about 1955–1958, some of its practitioners assumed ecclesiastical titles, one or more posing as a "minister" and adopting the title "reverend", and one the title "bishop".

There was no valid basis for the assumption of such titles ; their adoption, and also the wearing of clerical garb which was practised for a short time, merely indicated compliance with directions from Hubbard to assume such poses to help gain entry into hospitals and other places where no one would " dare to hinder or oppose a man of God ". In PAB 32, Hubbard wrote that " a society accords to men of the church an access not given to others. Prisons, hospitals and institutions, and those who manage them, cannot do otherwise than welcome men of the church." The practice of such infiltration was referred to as procurement or dissemination, its purpose being to inveigle the sick and the distressed into scientology. The " bishop ", one Frank Turnbull, went to New Zealand in the late 1950's (For further details, see Chapter 15).

Scientology in Victoria has not developed the " founding churches of scientology " which have arisen in the United States and are located in Washington, Los Angeles, New York, Miami, Seattle, Detroit and Dallas. On such evidence as the Board heard concerning the founding churches, one would not classify their practices as those of a religion. What their beliefs are did not appear in evidence and a handbook of their ritual, which was produced in evidence, dealt with little more than how to conduct church services, weddings, christenings and funerals. The instructions as to sermons were that they must always be on some phase of scientology. The handbook did contain " The Church of Scientology Creed ", which asserted that its adherents believed, in effect, in the right of man to be free, and included declarations " That all men have inalienable rights to their own religious practices and their performance ", and " That the spirit alone may save or heal the body."

When, in 1962, the United States Food and Drug Administration began to investigate the E-meter as an instrument of healing, Hubbard promptly issued HCO Pol. Lr. of the 29th October, 1962, claiming that the E-meter was " a valid religious instrument, used in Confessionals ", pointing out that all scientology corporations were religious in nature, and were incorporated as religious fellowships, and that, as to the London and Commonwealth offices, " they will soon be transferred to Church status when the founding Church of Washington DC is given full tax exemption." Williams said that nothing was done to implement the plan to transfer the Melbourne HASI to " Church status ", and he repudiated the suggestion that tax exemption had anything to do with the proposal to give " Church status ".

There is no justification for the claim that the E-meter is " a valid religious instrument, used in Confessionals " ; in the course of being audited with an E-meter, a preclear is *forced* to tell his most intimate and shameful secrets and he does not make such disclosures as part of a religious practice.

In the early days of scientology in Victoria scientology weddings were performed, the total of such ceremonies being probably under ten in number. In such cases as the Board heard about, the scientology " wedding " was supplementary to the conventionally recognized nuptials, except, perhaps, in one instance. In that case, a witness gave evidence that in about 1957 one of the " reverend " gentlemen mentioned above with whom the witness was then residing was summoned at 4 o'clock in the morning to a flat where a scientologist had a sudden urge to be married. The " reverend " and the witness proceeded to the flat where the expectant couple were and the scientology ceremony took place. The witness said that he felt some anxiety that the couple should embark upon the sea of matrimony with no more formal launching than a scientology ceremony—his anxieties stemmed from the fact that adverse publicity might be given to scientology if such a secret leaked out—but, he said, his anxieties were allayed because eventually the couple were " churched ", albeit somewhat tardily, a couple of weeks later.

Some scientologists claim to be " doctors of divinity " and assume the letters " D.D. ", a distinction believed to have been bestowed by a hubbardian institution in America. There are few such dignitaries in Australia. One curious instance, however, is that of " Doctor " Marcus Tooley, who practises in Sydney, with a branch office in Melbourne, under the name of " The American College ", what he calls " dynamic psychology ". Tooley was formerly a prominent scientologist and held the degree of " Doctor of Scientology " and a hubbardian bestowed " D.D.". The hubbardian-bestowed " doctorates " are the only justification for Tooley's title of " doctor ". Tooley now denies that he is a scientologist, and he claims that what he practises is a form of psychology which has developed either parallel with or independent of scientology. His case is dealt with in Chapter 29.

There is in Victoria one " minister " of the founding church, but this is the founding church of America, for as the witness explained, there is no founding church in Victoria. This " minister " is a woman who qualified for this title, and a certificate signed by Hubbard, by writing a 2,500-word thesis. She has confined the practice of her " ministry ", so she said, to a very occasional scientology wedding service which she has conducted merely to oblige friends, and her services have been additional to the conventional ceremonies because she says that she was well aware that she had no authority to conduct a regular wedding service. She has found scientology consistent with her religion, so she said, but in her day she has had several religions and would probably have difficulty today in nominating her current religion.

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A partiality for dalliance in numerous religions was a characteristic of a number of witnesses who were scientologists. They were anxious people seeking something to believe in, and the various beliefs they had savoured did not satisfy them, for such beliefs required the searcher to accept the hard realities of life. In their search for the truth, as they wanted it to be, they found in scientology a soporific which insulated their minds against reality and allowed them to treat as their creed anything which pleased or satisfied or quieted them. Scientology promised them immortality if only they could have a reality on the thetan ; the scientology " hereafter ", with no heaven or hell or purgatory but an unending progress beyond time as a clear or even an operating thetan, gave them just the sort of thing they wanted to believe in. They had not found such escape in the tenets of the major religions, Christian and otherwise. Instead, they found refuge from reality in scientology and were able to sustain their illusion of escape by continued scientology processing. One witness had subscribed at one time or another to as many as 23 different religions, some of them quite exotic, but he was somewhat exceptional.

When the Inquiry began, scientologists were very concerned to establish scientology as a science, a precise science, and the whole of the evidence which they then gave was directed towards this end. So far as religion was concerned, reference was made to the injunction of Hubbard—" change no man's politics, change no man's religion, deny sovereignty to no nation "— to demonstrate its non-religious quality. Witnesses said that a person could be a scientologist and could at the same time subscribe to any religion he wished and there would be no conflict. An undated pamphlet from the HASI states that " the HASI is non-religious—it does not demand any belief or faith and is not in conflict with faith. There are people of all faiths who use scientology in their every day living, better their relations with people and their environment." In *HCO Bull.* of the 19th August, 1959, which is entitled " To a Roman Catholic ", Hubbard, in an endeavour to ingraciate scientology with members of that denomination, wrote that in Ireland scientology had operated without coming into conflict with the Church, and he added, " Scientology is not an heretic religion and demands no belief or faith and thus is not in conflict with faith." Some witnesses even said that scientology helped them understand and appreciate their own particular religion better, though they were considerably surprised and embarrassed when they were referred to some of Hubbard's writings, to be mentioned later, on matters religious which they could not reconcile with their particular religious beliefs.

The eighth dynamic in scientology is variously described as the urge towards existence, as infinity, the dynamic of the Supreme Being, the infinite or God dynamic, the Creator, the Infinite Nature ; it is called the eighth dynamic, so Hubbard states, because the symbol for infinity stood upright makes the letter " 8 ". Hubbard shows a curious reluctance to write about the eighth dynamic, and scientology writers somewhat ingenuously leave it to each other to discuss. Scientology, writes Hubbard, " does not intrude into the dynamic of the Supreme Being ", and his claim is that scientology " embraces " only the first seven dynamics.

The Attitude of Scientology to Religion.

Except for the purpose of deceit, scientology has not been practised in Victoria on the basis that it even remotely resembles a religion.

In advertisements and in the personal efficiency courses the HASI takes care not to disclose Hubbard's disparagement of religion. The directive, " Change no man's religion " is brought to the attention of the beginner, and scientology is paraded as quite consistent with and even as a help to all religion, of whatever denomination. It is only after the preclear has been conditioned by training and processing that he is likely to learn of Hubbard's cynical hostility to religion.

The attitude of Hubbard towards religion is one of bitter cynicism and ridicule, which gives the lie to his directive to " change no man's religion ". In a warped and sneering fashion he snipes at all things sacred in much the same way as he attacks the medical profession, though there is generally less venom in his tone when he is dealing with religion.

Scientology is opposed to religion as such, irrespective of kind or denomination. The essence of Hubbard's axioms of scientology is that the universe was created not by God, but by a conglomeration of thetans who postulated the universe. Sometimes God is referred to as the Big Thetan. Many of the theories he propounds are almost the negation of Christian thought and morality.

Hubbard spent some of his youthful years in the Orient and probably absorbed some Eastern learning, being particularly interested in Buddhism. He considers that his travels and research have made him an authority on the customs and religions of the peoples of the world. In *Scientology :* 8-8008, after dealing with the Early Greeks, he writes that

> " more modern man has fallen into the error of making God into the body of a homo sapiens and posting him somewhere on high with a craving for vengeance and a pettiness in punishment matched only by the degradation of homo sapiens himself. There are gods above all other gods, and gods beyond the gods of universes, but it were better, far better, to be a raving madman in his cell than to be a thing with the ego, cruelty and jealous lust that base religions have set up to make men grovel down."

These loosely expressed sentences are probably susceptible of several meanings, but their evident meaning is one disparaging of Christian belief, and this passage somewhat shocked certain scientology witnesses who had earlier said that they had not found anything in scientology which was opposed to their particular religion.

Whenever Hubbard mentions religion the note of disparagement is present. For instance, in PAB 130, Hubbard writes, " Purgatory and hell is a total myth, an invention just to make people very unhappy and is a vicious lie." In PAB 32, Hubbard writes, " Only a barbaric minister is a ' Man of God '. In all enlightened religions such men are called ' Men of Wisdom ' ". In PAB 31 Hubbard writes.

> " Religion does much to keep the assumption in restimulation, being basically a control mechanism used by those who have sent the preclear into a body. You will find the cross as a symbol all over the universe, and the Christ legend as an implant in preclears a million years ago."

In PAB 37 Hubbard writes " For two thousand years Man has not had health, happiness, or immortality, yet they were promised to him two thousand years ago, and Scientology is delivering them today."

In *HCO Bull.* of the 21st January, AD 10 (1960), Hubbard writes,

> " Some churches used a mechanism of confession. This was a limited effort to relieve a person of the pressure of his overt acts. Later the mechanism of confession was employed as a kind of blackmail by which increased contribution could be obtained from the person confessing."

In PAB 31 it is written,

> " A few operating thetans—scarcity—could lead to trouble. Witness the chaos resulting from the activities and other determinism technology of one operating thetan, 2,000 years ago. It is despicable and utterly beneath contempt to tell a man he must repent, that he is evil. Those who talk most about peace on earth and good-will among men themselves carry forward the seas of unrest, war and chaos."

In *Certainty* Magazine, Vol. 5, No. 10, it is written, " Two and a half thousand years ago a handful of clears civilized half a billion people. What if we were all clear. Neither Lord Buddah nor Jesus Christ were OT's according to the evidence. They were just a shade above clear."

The " poet laureate " of scientology, Julian Cooper, wrote a poem, evidently with Hubbard's commendation, the text of which was distributed by the HCO as suitable for publication in magazines, part of which was :

" They that worship Jesus nailed upon a cross above an altar,
While an old priest chants . . . .
Do they know what they worship ?
Do they know who they worship ?
Can they recognize what they worship . . . . ?

Bondage of unconfronted facsimiles implanted so as to control and invalidate, is what they worship."

In *HCO Bull.* of the 18th July, 1959, appears this " Historical note " :

> " The whole christian movement is based on the victim. Compulsion of the overt-act motivator sequence. They won by appealing to victims. We can win by converting victims. Christianity succeeded by making people into victims. We can succeed by making victims into people."

In *HCO Bull.* of the 11th May, AD 13 (1963), popularly called the " Heaven " bulletin, Hubbard states that he has been to Heaven. He claims that the bulletin is

> " based on over a thousand hours of research auditing, analyzing the facsimiles of the reactive mind, and with the help of a Mark V Electrometer. It is scientific research and is not in any way based upon the mere opinion of the researcher . . . . The contents of this HCO Bulletin discover the apparent underlying impulses of religious zealotism and the source of the religious mania and insanity which terrorized Earth over the ages and has given religion the appearance of insanity."

In the bulletin, amongst many other things, he writes,

> " The Goals–Problems–Mass implants, which are the apparent basic source of aberration and human travail, which began with the goal to Forget, were cynically done ' in Heaven '.

> For a long while, some people have been cross with me for my lack of co-operation in believing in a Christian Heaven, God and Christ. I have never said I didn't disbelieve in a Big Thetan but there was certainly something very corny about Heaven *et al.* Now I have to apologize. There was a Heaven. Not too unlike, in cruel betrayal, the heaven of the Assassins in the 12th Century who, like everyone else, dramatized the whole track implants—if a bit more so . . . .
>
> "The symbol of the crucified Christ is very apt indeed. It's the symbol of a thetan betrayed . . . ."

He then tells of how he, apparently, visited Heaven on two occasions.

> "The first time I arrived and the moment of the implant To Forget was dated at 43,891,832,611,177 years, 344 days, 10 hours, 20 minutes and 40 seconds from 10 : 02½ P.M. Daylight Greenwich Time May 9, 1963. The second series was dated to the moment of the implant To Forget as 42,681,459,477,315 years, 132 days, 18 hours, 20 minutes and 15 seconds from 11 : 02½ P.M. Daylight Greenwich Time May 9, 1963."

He tells further that the implants were electronic by nature and following the pattern of the GPM, that implanting was done on a non-visible thetan, which arrived in a ship in a doll body. On the first occasion there were 29 implanted goals, on the second, 21 ; on each occasion the first three goals were the same, namely, To Forget, To Remember, To Go Away.

On both occasions the Gates of Heaven were visible.

> "The gates of the first series are well done, well built. An avenue of statues of saints leads up to them. The gate pillars are surmounted by marble angels. The entering grounds are very well kept, laid out like Bush Gardens in Pasadena, so often seen in the movies. Aside from the implant boxes which lie across from each other on the walk there are other noises and sounds as though the saints are defending and berating . . . .
>
> The second series, probably in the same place, shows what a trillion years of overt acts does (or is an additional trickery to collapse one's time). The place is shabby. The vegetation is gone. The pillars are scruffy. The saints have vanished. So have the angels. A sign on one (the left as you enter) says 'This is Heaven'. The right has a sign 'Hell' with an arrow and inside the grounds one can see the excavations like archaeological diggings with raw terraces, that lead to 'Hell'. Plain wire fencing encloses the place. There is a sentry box beside and outside the right pillar. The roadway 'leading up' to the gates is deeply eroded. An effigy of Joseph, complete with desert clothing is seen approaching the gates (but not moving) leading a donkey which 'carries' the original Madonna and child from 'Bethlehem'. The implanting boxes lie on either side of this 'entering' path at path level."

There is a great deal more in similar vein, the research which Hubbard did upon himself and others producing a great amount of hallucinatory nonsense enthusiastically conjured up in response to suggestions made before and during hypnotic auditing sessions, yet accepted as reality and verified scientific fact by Hubbard and his followers.

The bulletin concludes,

> "Further, we have our hands on an appalling bit of technology where the world is concerned. With rapidity and a Meter it can be shown that Heaven is a false dream and that the old religion was based on a very painful lie, a cynical betrayal.
>
> What does this do to any religious nature of Scientology ? It strengthens it. New religions always overthrow the false gods of the old, they do something to better man. We can improve man. We can show the old gods false. And we can open up the universe as a happier place in which the spirit may dwell. What more can you expect. This actually places us far beyond any other beings that are about. It puts us, through increased beingness and a restoration of life, in control of much destiny.
>
> We have now only a few unsolved problems about life, huge though they may be, such as the construction of bodies and how does one establish the character of and communicate, if feasible, with beings who are making trees and insects. There are a few things like these. But I imagine when we finally manage to communicate with beetles under rocks and free them, we'll no doubt find the Creator of Heaven who 43 + Trillion years ago designed and built the Pearly Gates and entrapped us all.
>
> Good Lord, I'd hate to be guilty of that overt. But never mind—you aren't either. That guy is Gone (I hope !)".

Some scientology witnesses sought to explain that Hubbard really did not mean that it was Heaven that he was writing about in this bulletin, but either that it was "hell" or "a hell" over the entrance to which some "racketeer" had written "Heaven". The suggestion was, as Hubbard puts it in the bulletin, that "Before you went to Heaven you were not really very good or very bad, but you didn't think you had lived only once and you had a good memory and knew who you were and enjoyed life ", and that when you went to this place which was got up to resemble Heaven, you were implanted with aberrative goals to forget and the like, which somehow conditioned you to believe in this present lifetime a variety of things about Heaven because of the deception practised by the implanters 43 trillion years ago. Actually no scientology witnesses could explain what Hubbard meant, except that Hubbard says what he means and that " an ordinary person " would not understand the bulletin.

Care is taken by Hubbard to ensure that while a student is on course he is kept away from influences which might be likely to assist him to resist the pernicious learning which he is absorbing. In HCO Pol. Lr. of the 22nd November, 1961, appear the " Training Course Rules and Regulations ", one of which reads—

> " 24. Do not engage in any rite, ceremony, practice, exercise, meditation, diet, food therapy, or any similar occult, mystical, religious, naturopathic, homeopathic or chiropractic treatment or any other healing or mental therapy while on Course without the express permission of the Director of Training."

Courses may be as short as two weeks or may extend over many months. Absence from salutary influences for such lengthy periods tends to increase the domination of the HASI over the preclear.

Williams, the grandson of a clergyman, said that scientology was particularly careful not to interfere with anyone's religion and that his own religious views had not been changed away from Christianity by reason of anything he had studied in scientolgy. One young woman, struggling to escape from scientology, said that one of the many side effects of the past lives teaching of scientology was that it " knocks your belief in the church."

One scientology witness considered that it was consistent with his Christian teaching in relation to the human soul, that it might well have returned to Earth on a number of occasions after visiting implant stations in the intermediate period. Other witnesses agreed that scientology was inconsistent with their Christian beliefs. Some said that they saw no inconsistency. One considered scientology more christian than Christianity. Another said that Hubbard's disparagement of religion was merely the expression of scientific or philosophic hypotheses, and there was no inconsistency because religion was one thing and philosophy another, and the witness sought to justify the apparent difference between Christianity and scientology by saying in effect that one was not being inconsistent if, when writing in one frame of reference, one contradicted what was a fact in another frame of reference.

That scientology witnesses were partisan on the question of whether Hubbard was hostile to religion was, of course, apparent. An ordinary person, reading the writings of Hubbard, a man who " says what he means ", can judge for himself.

In a community which is nominally Christian, Hubbard's disparagement of religion is blasphemous and a further evil feature of scientology.

Promise of Immortality.

Hubbard exploits in two ways what psychologists regard as " the great mystery and the great threat to us as human beings ", namely, death. Hubbard promises immortality through scientology, and he warns that death awaits those who oppose scientology. In making such a promise, Hubbard ascribes immortality to the thetan and the suggestion is that a person cannot enjoy immortality unless he has a reality on the thetan and on scientology teachings.

In *Certainty* Magazine, Vol. 3, No 9, R. Kemp, who is described as " D.Scn., D.D. ", writes, " Of course all people are thetans (spirits) and all thetans are immortal and indestructible ; they cannot under any circumstances actually and finally die, but they can get awful close to it . . . . "

The editorial note to *Scientology : 8–80* is sufficiently garbled to convey the impression that scientology, which claims to bestow the ability to heal the ill without physical contact and to cure the insane and the incapacitated, may also revive the dead or dying. In *Certainty* Magazine, Vol. 4, No. 12, Hubbard writes,

> " Well, I've been working now for a lot of years to bring Dianetics and Scientology up to a point of super-magic. It was easy to get them up to magic . . . . ", and the article goes on to say that there was " enough data to know that dying wasn't fatal but *still* men died and dying often hurts."

The claim is made in PAB's Book 3, and repeated elsewhere that " Scientology can demonstrate that it can obtain the goals set for man by Christ, which are : Wisdom, Good Health and Immortality ". In Infm. Lr. of the 24th November, 1963, Hubbard writes, " No organization which can achieve individual immortality ever worries much about momentary hostility. And individual immortality is not only in our grasp but is now being achieved."

In HCO Infm. Lr. of the 1st September, AD 13 (1963), which tells of a young woman, who on her death had indicated that she would return to pick up the body of a girl and take up where she had left off, Hubbard writes, " We lose very few people by death. unlike the healing professions who lose their practitioners in hordes. But we do temporarily lose some by death. A dozen or so in the past few years." Though, when writing along these lines, Hubbard is writing about the thetan, so garbled is much of what he writes on this subject that his followers may be excused for believing—as some appear to have believed—that the immortality promised is immortality in respect of their earthly or human life. As recently as May, 1965, the Melbourne *Communication* Magazine, unequivocally states " An intensive at the Hubbard Guidance Centre puts you on the road to freedom from sickness misery and death."

The Auditor, the Saint Hill Journal of Scientology, mailed direct from East Grinstead to Victorians on the HASI mailing lists, in explaining in issue No. 8 (1965) what scientology *really* is asserts, " It is the only thing which can salvage you from *sickness* and *eventual death* ".

It was said by one witness that, since scientology ensured good health by proofing against illness, scientology was, in effect, ensuring at least longevity, and very few if any people who had espoused scientology were known to have died.

Scientology is opposed to all forms of punishment, and Hubbard has told his followers that " purgatory and hell is a total myth, an invention just to make people very unhappy and is a vicious lie ". Comforted by these and similar statements, deluded preclears are able to shut their eyes to the reality of normal human problems which they may have, and to find refuge in scientology theories about the immortality of the thetan which will keep on returning to earth again and again for eternity, without the obligation of accounting, according to Christian belief, for this life's conduct.

Hubbard repeatedly predicts death or disaster for those who oppose scientology. He writes from time to time of long lists of people who have died because they have opposed scientology and offers to produce the death list to the doubters. Specifically, in Com. Mag. Vol. 1, No. 19, Hubbard writes, " On the other hand, without any action taken against them, of twenty-one highly placed attackers, seventeen are now dead." Elsewhere he writes that each and every one of the " squirrels " of yesteryear have met with disaster, the biggest squirrel in Great Britain being recently found in the bankruptcy court. (A squirrel is one who has given up allegiance to Hubbard but still purports to practise scientology, picturesquely described in evidence by a former scientologist as a madman running around collecting nuts.) Hubbard lists other cases of individuals who, having acted in a way hostile to scientology, have suffered disaster, such as one tradesman who overcharged the organization and contracted TB, and a bill collector who, when he realized how terrible it was to endeavour to collect a debt from Hubbard, committed suicide half an hour later.

In *HCO Bull.* of the 29th July, 1963, Hubbard reports with evident glee, " Government attacks have entered a more desultory stage. Meters will go to jury trial eventually and we will certainly win. The U.S. Government Attorney handling the case became terribly ill and had to resign it ".

A number of witnesses gave evidence that they were aware of a general belief amongst scientologists that hostility to scientology rendered a person likely to die on that account, not by physical violence at the hands of scientologists but because he would be so overwhelmed by the enormity of his overt that death would ensue as the motivator. The effect of such a belief was observed in the case of one woman witness who believed that any person who turned against scientology could expect to die within twelve months. She tried to break away from scientology in the early stages of the Inquiry but she returned to the fold at a later stage partly, at least, because she feared she would suffer harm, even death, should she defect.

This fear of death is one of the elements which keep Hubbard's followers in subjection, and constrain them to continue in their acceptance of his teachings. They fear the human death which Hubbard has said will follow their defection, and they fear the loss of the immortality which acceptance of his teachings makes into a reality for them. Hubbard prescribes effective treatment as soon as doubts begin to arise. The waverer, while still a worried believer, is processed and his overts revealed and his continued subjection ensured by further indoctrination.

Exhibit B

to Declaration of Gerald Armstrong in Opposition to Ex Parte Application

filed 9-20-95

under seal

8612

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Scientology is an Applied Religious Philosophy.
Scientology® is a registered name.

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This book is part of the works of L. Ron Hubbard, who developed Scientology® Applied Religious Philosophy. It is presented to the reader as a record of observations and research into the nature of the human mind and spirit, and not as a statement of claims made by the author. The benefits and goals of Scientology can be attained only by the dedicated efforts of the reader.

The Hubbard Electrometer, or E-Meter, is a device which is sometimes used in Scientology. In itself, the E-Meter does nothing. It is not intended or effective for the diagnosis, treatment or prevention of any disease, or for the improvement of health or any bodily function.

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HUBBARD COMMUNICATIONS OFFICE
Saint Hill Manor, East Grinstead, Sussex

HCO BULLETIN OF 25 NOVEMBER 1971
Issue II
REISSUED 21 SEPTEMBER 1974
(Only change is signature)

8613

Remimeo
GF-40X
Checksheet

(HCO Bulletin of 23 September 1968, a Class VIII Confidential Bulletin edited and reissued for information of Auditors handling GF-40.
NOTE: This does not cancel or replace HCOB 23 Sept 1968 which contains further vital data for the Class VIII Auditor.)

RESISTIVE CASES
FORMER THERAPY

Hypnotism, "psycho" analysis, "psychiatry" and other implant type therapies often key in and jam the track.

These characters here, on any other planet and on the whole track *dramatize* implanting. The "therapy" involved would be a temporary relief brought by suggestion.

The wrong data of the "science" itself operates as a whole track lie. Getting well or able depends on establishing truth. These "scientific" lies are alterations of actual laws.

We often note electronics men have a rough case time. This traces to the lies Man uses for his "electrical science". As the subject is based on false assumptions, it itself tends to aberrate.

Therefore we get out of the road any former "therapy". We can rehab any moment of release in it, handle any overrun, etc.

We also do a New Style Remedy B to get old therapies spotted and run back.

The only cases which hang up are:

1. Unaudited cases (lies about grades, etc).
2. Drug cases (who seek in processing the delusions or madness which exhilarated them on drugs).
3. Former therapy cases. (In this or past lives.)
4. Out of valence cases.
5. Cases who continue to commit overts on Scn.
6. Cases "audited" with their ruds or grades out.
7. Seriously physically ill cases (where the illness makes too much PTP in PT).

Of all these the former therapy case is apt to be the roughest as any *auditing* session can be reactively mistaken for the "treatment". The next roughest is the drug case as a false exteriorization often occurs on an enforced basis and may go into restim.

Some drug takers go plowing back into early implants and drug therapies so the two get crossed up on a case.

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To isolate the reason for a highly resistive case or high TA you can assess the above 7 items and get a clue. Don't limit it to this lifetime. And don't do it so as to key the person in hard on things he wasn't in. And don't do it unless the case is very hard to get a gain on.

Engram running of a crude sort can be found hundreds, thousands or billions of years ago and consists if it appears, of an overrun. They didn't know much about it and overran them badly.

Implants, psychoanalysis, psychiatry, hypnotism get all snarled up with sex as these birds would commonly (and do) stage insane sex scenes. They violate the children and wives of officials even today to produce a degrade and to make a scene so insane that the "patient" if he remembers it really thinks he *is* insane. And if he tries to tell anybody (or if she tries to tell her husband) it's a prompt mess, so these "practitioners" hide their activities in this fashion.

The trouble with such former "therapies" and electric shock, etc, is that it:

(a) groups track by the command of the practitioner
(b) sends the pc to the start of track WAY back and sticks him there out of PT.

The keynote of piloting through messes like this is to (A) Know what kind of a mess it is and (B) Don't EVER force a pc back track or into anything he doesn't want to confront easily.

Drugs *force* the person back into these messes and stick him.

One of these former therapy or drug messes is only hard to untangle because they are full of incredibles. The pc doesn't accept them or just try to see what's in them.

The basic rule in any case is Reality is proportional to the amount of charge removed and so Reality can be increased simply by removing charge. These surges of the needle as well as the BDs of the TA are "charge coming off".

Anything eventually resolves if the pc just keeps on getting charge off.

The earliest charge is the most important.

Charge off the exact grades is the most valuable.

But ANY charge off will make it, even on former "therapies".

L. RON HUBBARD
Founder

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WHAT IS SCIENTOLOGY?

The Comprehensive Reference on the World's Fastest Growing Religion

Bridge
PUBLICATIONS, INC.

PART NINE

A SCIENTOLOGY CATECHISM

Throughout history, religions have traditionally published summaries of their basic principles in catechism form. The following chapter will answer some of the most commonly asked questions people have about the fundamentals of Dianetics and Scientology.

When individuals first hear about the subject, their questions are usually quite diverse. They range from "Why is Scientology called a religion?" and "What is the difference between Dianetics and Scientology?" to "Who was L. Ron Hubbard?" to "What is the E-Meter and how does it work?"

These questions, and many others, are answered in the following pages.

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Scientology does not conflict with other religions or other religious practices. Quite often Scientology church members rekindle a greater interest than ever in the subject of religions—including the one of their birth.

What does Scientology have to say about Christianity?

Scientologists hold the Bible as a holy work and have no argument with the Christian belief that Jesus Christ was the Savior of Mankind and the Son of God. We share Christ's goals for man's achievement of wisdom, good health and immortality. Christianity is among the faiths studied by Scientology ministerial students.

There are probably many types of redemption. That of Christ was to heaven.

SCIENTOLOGY BELIEFS

Is man a spirit?

Yes. Here's a short exercise you can do to find out for yourself.

Close your eyes and get a picture of a cat.

Done?

That which is looking at that cat is you, a spirit.

How does one know man is a spirit?

It is a matter that each individual must examine for himself. Scientologists believe man is more than a mind and body and that it is he, himself, the spirit, who can control his mind and body.

Do you think your body would *do* anything by itself if it were not guided by you, the being?

What is the Scientology concept of God?

The Church has no dogma concerning God, and each person's concept is probably different. As a person becomes more aware of himself, others, the environment and God, each person attains his own certainty as to who God is and exactly what God means to him. The author of the universe exists. How God is symbolized or manifested is up to each individual to find for himself.

In his book *Science of Survival,* L. Ron Hubbard writes: "No culture in the history of the world, save the thoroughly depraved and expiring ones, has failed to affirm the existence of a Supreme Being. It is an empirical observation that men without a strong and lasting faith in a Supreme Being are less capable, less ethical and less valuable to themselves and society. . . . A man without an abiding faith is, by observation alone, more of a thing than a man."

Can't God be the only one to help man?

Scientologists take the maxim quite to heart that God helps those who help themselves. They believe that each person has the answers to the mysteries of life; all he requires is awareness of these answers, and this is what Scientology helps a person achieve. Man is accustomed to asking for pat answers. Scientology requires that the person think for himself and thus help himself become more intelligent, happy and healthy.

Does Scientology believe in brotherly love?

Yes, and perhaps goes a step further. L. Ron Hubbard wrote that "To love is the road to strength. To love in spite of all is the secret of greatness. And may very well be the greatest secret in this universe."

Why do Scientologists want to help people?

For several reasons. First, because Scientologists themselves have been helped enormously—and they want others to share the same successes. Second, Scientologists understand that life is not lived alone. An

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FILED
SEP 20 1995
HOWARD HANSON
MARIN COUNTY CLERK
By ______ Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	CASE NO. 157 680 [CONSOLIDATED] [~~PROPOSED~~] ORDER RE CHURCH OF SCIENTOLOGY INTERNATIONAL'S EX PARTE APPLICATION FOR AN ORDER STRIKING ARMSTRONG'S EVIDENCE IN SUPPORT OF OPPOSITION TO PLAINTIFF'S PENDING MOTIONS FOR SUMMARY ADJUDICATION, OR, IN THE ALTERNATIVE, FOR AN ORDER SEALING THE FOLLOWING EXHIBITS: VOL. VI, EX. 1(J)(A), EX. 1(J)(M); VOL. VII, EX. 1(J)(M); VOL. IX, EX. 2(A), 2(C), 3(B), 5(B), AND 7(A); REQUEST FOR SANCTIONS [C.C.P. § 437C(i)] DATE: September 19, 1995 TIME: 9:30 a.m. DEPT: 1 TRIAL DATE: Not set

This matter came on for hearing on September ~~19~~ 20, 1995, on the ex parte application of plaintiff Church of Scientology International for an order striking or sealing Armstrong's Evidence in Support of Opposition to Pending Summary Adjudication Motions.

Having read and considered the moving papers and the evidence and arguments presented therein and at the hearing, and good cause appearing:

IT IS ORDERED:

~~Defendant Armstrong's Evidence in support of opposition to pending summary adjudication motions, filed on September 18, 1995, is stricken without leave to amend. Armstrong is sanctioned in the amount of ________, plaintiff's reasonable costs occasioned by the filing of the Evidence pursuant to C.C.P. § 437c(i).~~

~~DATED: September ____, 1995~~

~~THE HONORABLE GARY W. THOMAS~~
~~SUPERIOR COURT JUDGE~~

The following exhibits to Armstrong's evidence in support of opposition to plaintiff's pending motions for summary adjudication are ORDERED SEALED: Vol. VII, Exhibits 1(J)(A), 1(J)(M); Vol. IX, Exhibits 2(A), 2(C), 3(B), 5(B) and 7(A).

Dated: Sept 20, 1995 Gary W. Thomas

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FILED
SEP 25 1995
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MARIN COUNTY CLERK
By ______ Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiff,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

CASE NO. 157 680

[CONSOLIDATED]

PLAINTIFF'S FURTHER REPLY IN SUPPORT OF MOTION FOR SUMMARY ADJUDICATION OF THE TWENTIETH CAUSE OF ACTION OF PLAINTIFF'S SECOND AMENDED COMPLAINT

DATE: September 29, 1995
TIME: 9:00 a.m.
DEPT: 1

TRIAL DATE: None set

I. INTRODUCTION

> That's why I do not honor, cannot honor that [Settlement Agreement].
>
> * * *
>
> It isn't only in response -- you also have to understand that the settlement agreement by and of itself standing alone is unenforceable -- is against public interest -- is illegal.

[Gerry Armstrong, Boulder Public Radio, **August 31, 1995.**]

In its moving papers, plaintiff Church of Scientology International ("plaintiff" or "the Church") has demonstrated unequivocally its need for a strong, specific and permanent injunction to specifically enforce its Agreement with Gerald Armstrong ("Armstrong"). The Church has set forth nearly 50 instances since 1991 in which Armstrong has deliberately breached the Agreement, daring plaintiff and this Court to do something about it. Armstrong raises no substantive issue of fact contradicting any of these breaches. [See, Arm. Sep.St., Nos. 11-85] Since this motion was filed, Armstrong has filed a petition for bankruptcy, thus underscoring plaintiff's need for injunctive relief: by dissipating the entire settlement proceeds of $800,000, Armstrong has made certain that the Church will be unable to obtain a monetary remedy for his breaches.[1]

In the brief which his returning counsel, Ford Greene, filed belatedly, opposing this motion, Armstrong does not dispute the facts concerning any of the breaches described in the moving papers; indeed, the breaches themselves are, almost uniformly, admitted by Armstrong. Instead, Armstrong relies on a series of arguments, all made previously in this case, and all rejected by multiple courts, in an effort to invalidate the contract itself. These arguments improperly seek reconsideration of decisions already made by this Court, the Los Angeles Court and the Court of Appeal; further, with their inflammatory attack on the Church, its counsel, its parishioners and its beliefs, they insult plaintiff and this Court alike. None of them provide any reason why the injunction should not be granted exactly as prayed.

---

[1] This Court will no doubt recall that Armstrong filed his bankruptcy petition one day before the Court was due to rule on this then-pending motion.

Moreover, since filing for bankruptcy, Armstrong has **again** breached the Agreement, by appearing on a radio program on August 31, 1995, and by appearing and speaking at a demonstration outside the Church of Scientology of San Francisco on September 9, 1995. [Evidence in Support of Additional Reply, Exhibit 1, Declaration of Deborah Danos, and Exhibit A thereto; Exhibit 2, Declaration of Jonathan Cole and Exhibit A thereto; Exhibit 3, Declaration of Laurie J. Bartilson and Exhibit A thereto.] These additional breaches, and Armstrong's insistence, in the face of all reason, that the Agreement is "unenforceable" or "illegal" demonstrate graphically the need for permanent injunction exactly as requested by plaintiff.

II. ARMSTRONG'S ATTACKS ON THE AGREEMENT ARE UNAVAILING

A. There Are No Provisions In the Contract Regulating The Church's Speech Concerning Armstrong

Armstrong begins this brief, like his companion brief, by asking that this Court imply a new term into the contract, and then hold that the Church may not obtain damages for breach of contract against Armstrong because it violated that term. This same argument has been raised before, and rejected by, Judge Sohigian, when plaintiff sought and obtained a preliminary injunction; by the court of appeal, when it affirmed that order; and by this Court, in striking one of Armstrong's cross-complaints. The issue, however, was firmly laid to rest on August 16, 1994, while the case was still in Los Angeles. Armstrong had sued the Church in cross-complaint for breach of contract, claiming that assorted "bad acts" of the church (the same false and tired allegations he makes yet again today) were a "breach" of an implied term of the settlement agreement, and justified his own breaches of that Agreement. The Los Angeles Court granted the church summary adjudication of this claim. Although Armstrong argued vehemently that the contract should be interpreted to include a clause prohibiting the Church from commenting on Armstrong, the Court held:

> The Agreement terms are clear and unambiguous. [Armstrong] understood the terms and signed it. The duties and obligations of the Agreement are clearly stated. "Mutuality" and "reciprocal" duties cannot be read into the unambiguous terms of the Agreement.
>
> **There are no provisions in the Agreement prohibiting the [Church] from referring to [Armstrong] with the press or in legal pleadings or declarations.** [Armstrong's] beliefs as to what the Agreement should have said, its validity, or what his attorney said or did to him are not relevant. The Agreement itself acknowledges that no agreements or understandings have been made among the parties aside from those set forth in the Agreement.

[Plaintiff's Request for Judicial Notice, Exhibit E, emphasis supplied].

This legal holding is the law of the case. Armstrong made no effort to seek reconsideration at the time that the Los Angeles Court issued this ruling, and his attempts to persuade this Court, more than one year later, to overrule this earlier, binding order are improper. Code of Civil Procedure Section 1008. It has already been adjudicated that the Agreement contains **no provisions** which prevent the Church from referring to Armstrong. Armstrong's present argument that he would not have been foolish enough to sign the "one-sided" Agreement, and accept more than half a million dollars, if he had known that the Church could really hold him to his promises is just the same old argument, re-hashed. It should be rejected, along with Armstrong's weighty load of irrelevant and inadmissible "evidence" demonstrating his opinion that the Church is "bad."

Armstrong's additional strident argument that he entered into the Agreement based on a (presumably verbal) additional promise of the Church that it would cease to practice "fair game" is just another version of this same rejected theme. That the Church made no such promise is patently clear: any doctrine concerning "fair game" was **cancelled** by the Church in **1968**, and the Church certainly did not practice "fair game" against Armstrong or anyone else at the time of the settlement in **1986**. The Church most emphatically did not promise to "stop" doing something it had never started. Moreover, both this Court and the Los Angeles Court have found the Agreement to be a valid, integrated contract, which contains all of its terms in the writing itself. Armstrong could not have reasonably relied on any verbal promise. Indeed, when he happily signed the Agreement on videotape, he swore that he understood that it contained the **complete** agreement of the parties.

Finally, Armstrong's current protestations that he would not have breached the Agreement (and, presumably, would stop breaching the Agreement) but for the Church's speech concerning him are belied by his **own admissions.** Less than one month ago, Armstrong appeared on a radio broadcast in Boulder Colorado. During that broadcast, he had this to say about his motivation for his repetitive breaches:

> ARMSTRONG: I was brought back into the legal battle by Scientology's actions --
>
> ANNOUNCER: Okay.
>
> ARMSTRONG: That's why I do not honor, cannot honor that --
>
> ANNOUNCER: That settlement? What you're saying essentially is that the Scientologists violated that settlement first -- this is just in response?
>
> ARMSTRONG: **It isn't only in response** -- you also have to understand that the settlement agreement by and of itself standing alone is unenforceable -- is against public interest -- is illegal.

[Exhibit 1(A) to Plaintiff's Additional Evidence, at 15] During the broadcast, Armstrong makes plain that his real purpose in appearing on the radio station is to paint a false and unflattering picture of his former faith for all of the station's listeners.

In short, Armstrong breaches the Agreement because he enjoys any opportunity to attack the Church. Not content to preach the Christianity he professes to follow, he wishes to slander and destroy his former faith. This is a right which he gave up in 1986.

///

///

B. Armstrong Cannot Avoid Summary Adjudication With Tired Claims Of Duress, Menace Or Fraud

Next, Armstrong once again urges this Court to refuse to enforce the Agreement because he claims that he was subjected to coercion by his own lawyer, Michael Flynn, and another settling party, in 1986. Armstrong urged this same defense to Judge Sohigian, who found in 1992 that Armstrong had not persuasively shown any duress. He repeated his arguments to the Court of Appeal, who reiterated in 1994 that the record did not support his claims. He repeated the arguments yet again to this Court in January, and this Court held resoundingly that he had stated no claim of duress or menace. [Ex. C Request for Judicial Notice] Armstrong offers no new evidence to this Court this time around, beyond yet another contradictory declaration from none other than Gerald Armstrong.[2] He again repeats in his own declarations a recitation of the bad advice which he allegedly got from Flynn that convinced him to sign the Agreement.

Moreover, Armstrong still offers no evidence from any corroborating witness as to any of his claims, and his assertion that he is unable to obtain such evidence is absurd. The records of this case disclose that plaintiff attempted to depose Michael Flynn in this action in March, 1992. Armstrong and Greene brought a motion to quash the subpoena, and prevented that deposition from going forward, although it would certainly have afforded them the full opportunity to obtain Mr. Flynn's testimony concerning his alleged "coercion" of Armstrong. In February 1995, Armstrong noticed Flynn's deposition himself. Just a few days before the deposition was to occur, without explanation, Armstrong withdrew the notice of deposition. If Flynn were going to corroborate Armstrong's bizarre tale, Armstrong was perfectly capable of lawfully obtaining the Mr. Flynn's testimony. His decision to silence Mr.

---

[2] The Church has moved to strike this and other declarations in their entirety for various reasons. See, plaintiff's objections to Armstrong's evidence and motion to strike.

Flynn instead demands the obvious inference that Mr. Flynn would not corroborate Armstrong's description of the events at the time of the settlement in the slightest.

Even if Armstrong's allegations are assumed to be true, however, they still do not assert a defense of duress as to plaintiff. Armstrong does not offer evidence that the Church subjected him to duress or coercion. He claims that his lawyer and other litigants convince him to sign the Agreement. Armstrong cites no authority, and there is none, holding that a party may set aside a settlement agreement because his attorney strongly urged him to settle for nearly one million dollars.

Armstrong's claim of fraud is just as frivolous. As noted in Part II A, supra, the Church made no promise concerning "fair game." Indeed, Armstrong provides no evidence at all of such a promise, simply asserting that his lawyer, Flynn, told him that the Church would make such a promise. Flynn's words, reported by Armstrong, are inadmissible hearsay. Moreover, the Agreement states clearly on its face that it contains the full and complete agreement of the parties, and that no party is relying on any additional oral or written promise. The videotape shows that Armstrong read this clause in the Agreement, and claimed to understand it, when he signed the Agreement, just prior to taking $800,000 from the Church. No evidence of "fraud" by the Church appears on this record.

Finally, the fact that Armstrong accepted, retained and continues to retain the benefit of his bargain precludes him from seeking to set aside the Agreement under any of these theories. Under California law, even where an agreement is the product of duress, coercion, undue influence or fraud, it is voidable, not void. Civil Code §§ 1566, 1567. This distinction means that the allegedly wronged party, in this case Armstrong, must act in a timely and affirmative manner to rescind the voidable contract. The allegedly wronged party can also ratify a voidable contract by his or her subsequent conduct, as Armstrong has done in this case. Civil Code § 1588. Armstrong's continued acceptance and enjoyment of the benefits of the transaction, well beyond the time he signed the agreement, as a matter of law constitutes consent to and ratification of all the obligations of the agreement. Civ.Code § 1589. See, e.g., Union Pacific R.Co. v. Zimmer (1948) 87 Cal.App.2d 524, 197 P.2d 363.

Under these circumstances, duress, menace and fraud are not affirmative defenses to plaintiff's breach of contract claims, and Armstrong has provided no new evidence to convince this Court otherwise.

C. The Agreement Does Not Violate Public Policy, Obstruct Justice, Or Violate Anyone's First Amendment Rights

Armstrong, once again, asks this Court to void the Agreement on the ground that it violates public policy, obstructs justice or violates Armstrong's first amendment rights. Four superior Court judges and the Court of Appeal have considered Armstrong's arguments concerning the validity of the Agreement, and all four have rejected them, in this case:

○ The **first** rejection of Armstrong's arguments came on March 20, 1992. On that date, plaintiff's motion for preliminary injunction came on for hearing by Judge Dufficy, of the Marin Superior Court. Armstrong made the same arguments to Judge Dufficy which he makes here concerning the Agreement. Although Judge Dufficy granted Armstrong's motion to change venue to Los Angeles, he heard argument concerning the injunction for nearly an hour, reviewed all of the voluminous paper filed by Armstrong, and issued a temporary restraining order upholding the provisions of the Agreement while the transfer was pending;

○ The **second** rejection of Armstrong's arguments came on May 28, 1992, when Judge Sohigian took evidence and heard argument for two days before issuing the preliminary injunction. Armstrong again raised all of the arguments concerning the Agreement which he makes in his opposition to the instant motion. Judge Sohigian specifically found that plaintiff had shown a substantial probability of success on the merits, and that the Agreement did not violate public policy [Ex. P to Request for Judicial Notice];

○ The **third** rejection of Armstrong's arguments occurred on July 2, 1992. Armstrong demurred to the complaint herein, urging the Court to find that the Agreement could not be enforced, and raising yet again all of the arguments he makes here. Judge Horowitz rejected Armstrong's demurrer;

○ The **fourth** rejection came from the Court of Appeal on May 15, 1994. The Second District Court of Appeal considered all of Armstrong's arguments, and upheld Judge Sohigian's injunction;

○ The **most recent** rejection came from this Court when, on January 27, 1995, this Court found that Armstrong had "fail[ed] to raise a triable issue regarding obstruction of justice/suppression of evidence. The settlement agreement expressly does not prohibit defendant from disclosing information pursuant to subpoena or other legal process. . . ." [Request for Judicial Notice, Ex. C]

Not only have five judges already held, in this case, that the Agreement's provisions are entirely legal, two other courts have upheld similar provisions in agreements entered into with other individuals with whom Church of Scientology entities settled in 1986. In Wakefield v. Church of Scientology of California (11th Cir. 1991) 938 F.2d 1226, 1227, settlement terms requiring confidentiality, which were substantially similar to the terms which plaintiff seeks to enforce here, were upheld by the district court and a criminal contempt citation was recommended by the magistrate judge for violations. These decisions were discussed with approval by the Eleventh Circuit Court of Appeals. Similarly, in McLean v. Church of Scientology of California (11th Cir. 1991) (Slip Op., Ex. H, at 2, 3, 6) the Church obtained a permanent injunction against Nan McLean from the district court for violating, inter alia, similar confidentiality provisions of a settlement agreement which was upheld by the Court of Appeals. These decisions - most in this very case - lay waste to Armstrong's arguments that the Agreement's provisions are illegal, void or against public policy. The only courts that have considered these or similar agreements have easily found them to be enforceable.

D. Armstrong's Religious Arguments Are Improper

Armstrong devotes a large portion of his brief, and almost all of his improperly-filed "evidence," to a discussion of his claimed religious beliefs, conferences with God, what he interprets/thinks/believes are plaintiff's philosophies or doctrines. **None** of these matters are at issue in this breach of contract case; none have any place in a brief before this Court. This Court has already told Armstrong emphatically that, "". For Armstrong to once again attempt to place this Court in the center of a (self-conceived) religious dispute is unconscionable.

Plaintiff declines to make this courtroom a battlefield on which religious competing religious theories are the casualties. Nothing in the Agreement prevents Armstrong from believing what he will, talking to God daily, or hating the Church vehemently. All it prevents him from doing is that which he agreed to refrain from doing: giving voice to his hate. The Agreement is not a religious document, nor need the Court consult any religious scripture, runes or entrails in order to interpret it. It is a legal contract, conceived of by lawyers, intended to end a garden variety dispute. Armstrong is bound by it regardless of his religious beliefs, then or now.

III. RECENT EVENTS DEMONSTRATE THE NEED FOR AN INJUNCTION PRECISELY AS PRAYED BY THE CHURCH

Since plaintiff filed this motion for summary adjudication, Armstrong has acted to make it the necessity of the injunction even more clear. First, on April 19, 1995, one day before this Court was to decide this motion, Armstrong filed a petition for bankruptcy, claiming that he had dissipated all of his assets. In light of this claimed insolvency, the Church cannot possibly have an adequate monetary remedy at law. Second, on August 31, 1995, obviously certain that he now had "nothing to lose," Armstrong voluntarily appeared on a public radio broadcast in Boulder,Colorado, in which he spoke at length about his claimed Scientology knowledge and experiences.

[Evidence in Support of Additional Reply, Exhibit 1, Ex. 1(A).] Finally, on September 9, 1995, Armstrong appeared on the street in front of the San Francisco Church, where he spoke about his claimed Scientology knowledge and experiences to everyone gathered or passing on the street. [Exhibit 2, 2(A), 3, 3(A)]

Armstrong's latest escapades make it clear that he is not going to stop breaching the Agreement merely because he owes the Church money, or just because five courts have told him that the contract is enforceable. Judge Sohigian's injunction provided relief from the exact activities in which Armstrong was engaged in 1992, but it is not sufficient to restrain him from his current round of gleeful public appearances. The liquidated damages clause is certainly no further deterrent to Armstrong; he believes that by filing for bankruptcy, he has extricated himself from the sticky and uncomfortable situation of having to give back some of the money he took. Only the full injunctive relief that plaintiff has requested can possibly begin to give plaintiff any measure of relief from Armstrong's deliberate misconduct.

IV. CONCLUSION

Armstrong, by his recent actions, has helped the Church to demonstrate the need for a permanent injunction precisely as requested. He admits his wholescale and unceasing breaches of the Agreement, and has demonstrated by his bankruptcy that liquidated damages cannot make plaintiff whole. None of the defenses raised amount to any issue of material fact, and injunctive relief is a matter to be determined by the Court as a matter of law. Armstrong must be permanently enjoined, as requested in plaintiff's proposed order of injunction.

Dated: September 25, 1995

Respectfully submitted,

MOXON & BARTILSON

By:
Laurie J. Bartilson

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is ~~6255 Sunset Boulevard, Suite 2000~~ 115 Sansome, Suite 400, ~~Hollywood~~ San Francisco, CA ~~90028~~ 94104.

On September 25, 1995, I served the foregoing document described as PLAINTIFF'S FURTHER REPLY IN SUPPORT OF MOTION FOR SUMMARY ADJUDICATION OF THE TWENTIETH CAUSE OF ACTION OF PLAINTIFF'S SECOND AMENDED COMPLAINT on interested parties in this action, by sending a true copy by hand delivery to:

FORD GREENE
HUB Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

and by U.S. Mail to:

MICHAEL WALTON
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I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 25, 1995 at Los Angeles, California.

Linda Fong
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FILED
SEP 25 1995
HOWARD HANSON
MARIN COUNTY CLERK
By ______ Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiff,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

CASE NO. 157 680

[CONSOLIDATED]

PLAINTIFF'S FURTHER REPLY IN SUPPORT OF MOTION FOR SUMMARY ADJUDICATION OF THE THIRTEENTH, SIXTEENTH, SEVENTEENTH AND NINETEENTH CAUSES OF ACTION OF PLAINTIFF'S SECOND AMENDED COMPLAINT

DATE: September 29, 1995
TIME: 9:00 a.m.
DEPT: 1

TRIAL DATE: None set

RUSH

I. INTRODUCTION

Armstrong's belated memorandum of points and authorities opposing summary adjudication of four of plaintiff's claims for liquidated damages ignores earlier rulings by this Court and by the Los Angeles Court, made **in this case**, and therefore binding upon all of the parties. Indeed, in his memorandum, Armstrong does not even **mention** the breaches complained of by plaintiff, but devotes the entirety of his briefing to: (1) an argument, already rejected by the Court and by Judge Horowitz, that the Church "breached" the agreement by speaking about Armstrong, thereby excusing Armstrong's later breaches; (2) a claim, also rejected previously by this Court, that the liquidated damages provision of the contract should not be presumed valid; and (3) a claim that the agreement was invalid because of the "unequal bargaining power of the parties." As demonstrated below, none of these arguments justifies a reconsideration of this Court's earlier determination that the contract, including the liquidated damages clause, is valid and enforceable.[1]

In the face of overwhelming evidence of each of his breaches, Armstrong has submitted **ten volumes** of "evidence" which does not contradict the evidence as to any **material** issue, but seems instead designed to use the files of this Court as yet another breach of the Agreement. As discussed in plaintiff's concurrently filed motion to strike, neither this evidence nor the separate statements filed by Armstrong on September 18, 1995 should be considered by the court. Although Armstrong is now represented by counsel, he filed **all** of these documents in propria persona, after substituting Mr. Greene as his attorney. Such submissions by a represented party are not permitted, and should be stricken. People v. Mattson (1959) 336 P.2d 937, 952, 57 Cal.2d 777; Electric Utilities v. Smallpage (1934) 137 Cal.App. 640, 31

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[1] Armstrong's arguments concerning additional affirmative defenses, previously rejected by this and other courts, and raised in his separately-filed opposition to plaintiff's motion for a permanent injunction, are addressed in plaintiff's reply to that opposition, and incorporated herein by reference.

P.2d 412. Further, as demonstrated below, none of the evidence submitted by Armstrong in propria persona raises any issue of material fact as to his breaches of the thirteenth, sixteenth, seventeenth or nineteenth causes of action.

II. SPEECH BY THE CHURCH CONCERNING ARMSTRONG DOES NOT EXCUSE ARMSTRONG'S BREACHES OF THE AGREEMENT

Armstrong begins his brief by raising a very old, rejected argument: that the Church's post-settlement conduct is relevant to these proceedings in that it somehow excuses, justifies or mitigates Armstrong's misconduct. Armstrong raised that argument in these proceedings not once, but many times: before Judge Sohigian, when plaintiff sought and obtained a preliminary injunction; before the Court of Appeal, when it affirmed that order; and before this Court, in presenting both affirmative defenses and a (now stricken) cross-complaint. The issue, however, was firmly laid to rest on August 16, 1994, while the case was still in Los Angeles. Armstrong had sued the Church in cross-complaint for breach of contract, claiming that assorted "bad acts" of the church (the same false and tired allegations he makes yet again today) were a "breach" of the settlement agreement, and justified his own breaches of that Agreement. The Los Angeles Court granted the Church summary adjudication of this claim. Although Armstrong argued vehemently that the contract should be interpreted to include a clause prohibiting the Church from commenting on Armstrong, the Court held:

> The Agreement terms are clear and unambiguous. [Armstrong] understood the terms and signed it. The duties and obligations of the Agreement are clearly stated. "Mutuality" and "reciprocal" duties cannot be read into the unambiguous terms of the Agreement.
>
> **There are no provisions in the Agreement prohibiting the [Church] from referring to [Armstrong] with the press or in legal pleadings or declarations.** [Armstrong's] beliefs as to what the Agreement should have said, its validity, or what his attorney said or did to him are not relevant. The Agreement itself acknowledges that no agreements or understandings have been made among the parties aside from those set forth in the Agreement.

[Plaintiff's Request for Judicial Notice, Exhibit E, emphasis supplied].

This legal holding is the law of the case. Armstrong made no effort to seek reconsideration at the time that the Los Angeles Court issued this ruling, and his attempts to persuade this Court, more than one year later, to overrule this earlier, binding order are improper. Code of Civil Procedure Section 1008. It has already been adjudicated that the Agreement contains **no provisions** which prevent the Church from referring to Armstrong. Armstrong's present argument that he would not have been foolish enough to sign the "one-sided" Agreement, and accept more than half a million dollars, if he had known that the Church could really hold him to his promises is just the same old argument, re-hashed. It should be rejected, along with Armstrong's weighty load of irrelevant and inadmissible "evidence" demonstrating his opinion that the Church is "bad."

III. THIS COURT HAS ALREADY ADJUDICATED THAT THE LIQUIDATED DAMAGES PROVISION IS VALID AS A MATTER OF LAW

Armstrong devotes the bulk of his brief to an argument that the liquidated damages provision should be held to be invalid as a matter of law. Again, this is improper. This Court already considered Armstrong's arguments and ruled, on January 27, 1995, that the liquidated damages provision was valid and enforceable as a matter of law. Armstrong made no motion to reconsider that ruling; it stands as the law of the case. He is simply not permitted to challenge it now. C.C.P. § 1008.

Moreover, Armstrong's argument is deceptive, and sheds no more light on the subject than did his earlier argument on the subject (which was based on repealed law). Armstrong argues, for example, that the Agreement in question should be evaluated pursuant to Civil Code Section 1671(d) because it "controls consumer contracts." [Oppo. at 3] This argument is specious. First, this Court has already found that Section 1671(b), not (d), is the controlling section. [Request for Judicial Notice, Ex. C at 1] Second, the statute itself, which Armstrong does not quote, makes very clear that subsection (d) applies only to very specific circumstances, **none** of which apply here:

> The validity of a liquidated damages provision shall be determined under

> subdivision (d) and not under subdivision (b) where the liquidated damages are sought to be recovered from either:
>
> (1) A party to a contract for **retail purchase, or rental, by such party of personal property or services, primarily for the party's personal, family or household purposes**; or
>
> (2) A party to a **lease of real property for use as a dwelling** by the party or those dependant upon the party for support.

[Emphasis supplied]

Third, the Agreement was **not**, as Armstrong intimates, a contract dealing with his "consumption" of Scientology services. It was an agreement settling ongoing litigation. The "context" of the underlying litigation did not arise from Armstrong's "consumption" of Scientology services: it arose from Armstrong's theft, while an employee of a Church-related entity, of valuable Church documents.[2]

Armstrong's argument that the liquidated damages provision should be voided as "unconscionable" is equally specious. As this Court found in January, Armstrong consulted at least two lawyers about the provision before deciding to sign the Agreement [Request for Judicial Notice, Ex. C] He certainly did not lack in bargaining power: he had employed two sizable law firms, one from Boston and one from Los Angeles, to litigate his case and negotiate a settlement on his behalf. Nor was he alone in pursuing his litigation; at the time of the settlement, his lawyers negotiated the settlement of at least 50 cases involving other persons suing various Churches of Scientology. Armstrong cites no case in which a person represented by counsel and entering into a settlement agreement was later able to void a provision in the agreement concerning future breaches as "unconscionable" due to "unequal" bargaining power. None exists. Armstrong's present unhappiness with the legal representation that he received in 1986 is not attributable to the Church and does not void any portion of the agreement. This Court has already so found. [Ex. C]

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[2] Indeed, in a radio interview just last month, Armstrong admitted that he had paid almost nothing for Scientology services, but was instead an employee. [Ex. A to Declaration of Deborah Danos, filed in support of Additional Reply in Support of Plaintiff's Motion for Summary Adjudication of the Twentieth Cause of Action, p. 10.]

Armstrong's final attack on the damages provision -- that it is inapplicable because the Church is not "really" injured by Armstrong's breaches -- has no more merit than his other arguments. The Church paid $800,000 to Armstrong in 1986 in exchange for his silence. His career as an anti-Church litigant and provocateur had already cost Church staff and entities substantially in time and money -- enough that they were willing to pay substantially to end his anti-Church activities. It is quite true that Armstrong's breaches have not destroyed the Church, as Armstrong no doubt would like. However, each of Armstrong's anti-Scientology activities have a cost to its millions of staff and parishioners -- whether it is from the neighbor who won't let her child play with the child of the Scientologists next door, after hearing Armstrong's lies; the parent who, believing Armstrong's outrageous stories, hires CAN deprogrammers to kidnap his grown son; or the local Church Director of Special Affairs, who must spend hours explaining to reporters that her Church's literacy program is most certainly not "neo-Satanic."[3] The Church has kept its bargain with Armstrong, and both sides measured the worth of that bargain in 1986. Armstrong is simply not permitted to re-evaluate it now.

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[3] Armstrong's self-aggrandizement is so boundless that he argues that the Church only litigates this case to "attack" him. This is ludicrous. For years, when Armstrong kept his bargain, the Church took no interest in Armstrong at all. The only comments any Church official made about Armstrong during that period (1986-1990) were comments made to counteract the negative effects of Armstrong's many pre-settlement attacks on the Church, which, like bad pennies, had a tendency to turn up. It wasn't until Armstrong began to attempt to extort more money from Church lawyers in return for continued silence, and when all attempts at resolution short of legal action failed, that this action began at all. And this action would have reached its conclusion years ago, if not for Armstrong's continual delay of the proceedings. Indeed, the reality is that it is Armstrong who creates and perpetuates conflict with the Church. In July, 1993, for example, he wrote candidly to his friend Larry Wollersheim,

"[A]s I mentioned a couple of weeks back, I have registered a treatment of my Scientology experiences for motion picture purposes. I will now forward with a synopsis of the later years to possible producers. This project, I think, will be where many of my hours in the next couple of years will go, and will bring me into direct conflict with the Scientology organization on its beachhead in Hollywood." [Evidence in Support of Separate Statement re Twentieth Cause of Action, No. 70]

IV. ARMSTRONG HAS RAISED NO TRIABLE ISSUE OF MATERIAL FACT AS TO THE THIRTEENTH, SIXTEENTH, SEVENTEENTH OR NINETEENTH CAUSES OF ACTION

To overcome a summary judgment motion, a defendant may not rely on mere allegations or denials in his pleadings:

> [O]nce the plaintiff has met that burden, the burden shifts and, to defeat the motion, the opposing defendant must produce sufficient admissible evidence to raise a triable issue of material fact either as to the cause of action or as to an affirmative defense.

American States Insurance Company v. Superior Court (1994) __ Cal.App.4th ___, 33 Cal.Rptr.2d 616, 619 (Insured could not overcome insurers showing that it was not required to defend by their own "vague, ambiguous and speculative statements").

Further, it is not sufficient merely for a defendant to demonstrate that a factual dispute of some sort exists: if no conflict exists as to any element of plaintiff's claim or as to an affirmative defense, "no amount of factual conflict upon other aspects of the case will preclude summary judgment." Shively v. Dye Creek Cattle Company (1994) __ Cal.App. 4th ___, 35 Cal.Rptr. 238, 241.

Here, Armstrong has not properly filed any evidence which contradicts the complete factual showing of four breaches of the Agreement made by plaintiff in the moving papers. As delineated in plaintiff's separately filed motion to strike, and for sanctions pursuant to C.C.P. § 437c(i), none of Armstrong's late-filed evidence should properly be considered at all. All the evidence, and both separate statements, were filed and signed by Armstrong in propria persona after Armstrong substituted Mr. Green as his counsel. A party represented by counsel has no right to file things directly with the Court, and the solution is simply to strike them. In People v. Mattson, supra, for example, the defendant was represented by an attorney, but nonetheless filed documents "which reflect[ed] his misconceptions of and refusal to adhere to established rules of law." 336 P.2d at 952. The California Supreme Court ordered all of his pro per filings stricken, and refused to consider them. Similarly, in Electric Utilities Co. v. Smallpage, supra, the Court of Appeal struck a represented party's pro per brief, finding that the party had no legal authority to file or appear. 31 P.2d at 413.

So, here, Armstrong has filed voluminous "separate statements" and ten volumes of irrelevant evidence devoted to ad hominem attacks on plaintiff, their counsel and his own former counsel; a mass of irrelevant papers filed in other cases; and a series of vague, speculative conclusions on Armstrong's own part that he should be excused from performance. It is little different from the mass of irrelevant paper which Armstrong filed in January -- it is, however, **five times** the volume, and **not** filed by his counsel.

Even if the Court considers this mass of irrelevant information, however, Armstrong still has failed to raise a single issue of material fact as to any of the four causes of action. The validity of the contract, plaintiff's performance, and the genuineness and meaning of its provisions have already been adjudicated by this Court. As demonstrated below, Armstrong has further **admitted** each of the specific breaches alleged, but attempts to excuse each of them in some unique way. None of Armstrong's justifications for his breaches raise any issue of material fact.

A. The Thirteenth Cause of Action

Armstrong admits, as alleged in the thirteenth cause of action that he gave a videotaped interview in November, 1992, in which he discussed his alleged Scientology knowledge and experiences for **95 minutes**. [Arm. Sep.St., pp. 16-21, Nos. 5-9]. He asks the Court to excuse him from the breach, however, because he went to the conference in Los Angeles at which he gave the interview "for psychological support and for defense," and that only the alleged actions of demonstrators he claims were Scientologists "attacking" him and "other innocent conferees" prompted him to give the interview. [Arm.Sep.St. at 21-22, No, 9A]

Needless to say, this allegation, even if true, offers no legal justification for Armstrong's breach. Moreover, this statement, made by Armstrong under oath in yet another declaration, contradicts the earlier statements made by Armstrong **on the videotape itself**. There, Armstrong said,

> [The Agreement] is unenforceable hence I feel that I am completely at liberty to associate with whomever I want, to talk to whomever I want, and I act in life that way. **And that is in part why I am here at this event now, why I came to the CAN conference.**

[Sep.St.No. 9]

Armstrong's later declaration may not be used to contradict his earlier statement to overcome a summary adjudication. In the words of the First District, "In reviewing motions for summary judgment, the courts have long tended to treat affidavits repudiating previous testimony as irrelevant, inadmissible or evasive." Advanced Micro Devices, Inc. v. Great American Surplus Lines Ins. Co. (1988) 199 Cal.App.3d 791, 800-801, 245 Cal.Rptr. 44. This is because

> [A]dmissions against interest have a very high credibility value. . . Accordingly, when such an admission becomes relevant to the determination, in motion for summary judgment, of whether or not there exist triable issues of fact (as opposed to legal issues) between the parties, it is entitled to and should receive a kind of deference not normally accorded evidentiary allegations in affidavits.

D'Amico v. Board of Medical Examiners (1974) 11 Cal.3d 1, 21, 112 Cal.Rptr. 786.

Armstrong's admission that he came to the conference to breach his agreement is, accordingly, entitled to special deference, and his later sworn statement that the actions of others prompted him to give his videotaped interview should be disregarded.

Plaintiff is entitled to summary adjudication of the thirteenth cause of action.

B. The Sixteenth Cause of Action

Armstrong has agreed that it is **undisputed** that he gave an interview in June, 1993, concerning his claimed Scientology knowledge and experiences to Charles Fleming, a reporter for Newsweek magazine. [Arm.Sep.St. at 24, No. 10] He has also admitted that he talked to Mr. Fleming about L. Ron Hubbard, and about Larry Wollersheim's case against the Church of Scientology of California. [Id., at 24-25, Nos. 11, 12]

Armstrong tries to "excuse" this breach by arguing (1) some of the things he spoke to Mr. Fletcher about were things he learned after signing the Agreement; (2) he wanted to talk to Mr. Fletcher about how "bad" he considered it that a text he considered to be religious and related to Scientology would be allowed in schools, when, in his opinion, Scientology is contradictory to Christianity; and (3) Scientology is, in his opinion, bad.

None of these arguments raise any issue of **material** fact as to this cause of action. Armstrong has admitted that his speech to Mr. Fleming concerned his claimed knowledge of and experiences with Scientology. That some of that experience supposedly occurred after 1986 is irrelevant. He has already admitted that some of his remarks were about pre-1986 events. Moreover, this Court has already held that the Agreement prohibits Armstrong from discussing **any** Scientology knowledge or experiences, however, or whenever gotten. [Request for Judicial Notice, Ex. C] Those are the plain, uncontradicted terms of the Agreement. Further, Armstrong's opinions concerning Scientology doctrine or philosophy (which are diametrically opposed to the Church's view of its own doctrine and philosophy) are equally irrelevant. Armstrong's reasons for talking to Mr. Fleming do not matter. He spoke to Mr. Fleming in deliberate, knowing, and flagrant breach of the Agreement. His claimed motives are irrelevant, and the "evidence" concerning them should be disregarded.

Plaintiff is entitled to summary adjudication of the sixteenth cause of action.

C. The Seventeenth Cause of Action

Armstrong does not dispute that he gave an interview to E!TV reporters in August, 1993, concerning his claimed Scientology knowledge and experiences, or that he gave them a manuscript for a screenplay which details his claimed Scientology experiences. [Arm.Sep.St. p. 30-311, Nos. 14-16] Armstrong's only excuse for this one is that he was being sued by this time, that people were saying bad things about him, and he wanted "to clear his name." [Arm.Sep.St.No. 16A] None of this "evidence," which consists entirely of Armstrong's hearsay and contradictory statements about what other people said about him, has any bearing whatsoever on this breach of the Agreement. It is admitted by Armstrong.

Plaintiff is entitled to summary adjudication of the seventeenth cause of action.

D. The Nineteenth Cause of Action

Armstrong fences with details concerning the nineteenth cause of action, but admits that he agreed to be an expert witness for Graham Berry on the subject of Scientology, and that he provided Berry with two declarations discussing his claimed Scientology knowledge and experiences. [Arm.Sep.St. pp.34-38, Nos. 17, 22] These admissions are sufficient to entitle plaintiff to summary adjudication, even without Armstrong's invented disputes, such as whether he met with "would be" or "honest to God" witnesses [Id. at 37.] In his "additional facts," Armstrong confuses the preliminary injunction with the Agreement, and argues that he was "entitled" to respond to a lengthy declaration of a Scientology official which mentioned him on a single page. As demonstrated in Part II, supra, the Church's statements cannot be used to excuse Armstrong's breaches, and do not supply any contradictory issue as to a material fact. Indeed, none of the lengthy argument attacking the Church and its leaders which is found in Armstrong's improper papers raises a single issue of material fact.

Plaintiff is thus entitled to summary adjudication of the nineteenth cause of action.

V. CONCLUSION

Armstrong has admitted to four separate breaches of the Agreement which require him to pay the Church a combined amount of $200,000 in liquidated damages. In his opposition, he has not provided substantial evidence of any disputed issue of material fact. Plaintiff is, accordingly, entitled to summary adjudication of its Thirteenth, Sixteenth, Seventeenth, and Nineteenth Causes of Action, and it is entitled to entry of judgment on those claims in the amount of $200,000.

Dated: September 25, 1995

Respectfully submitted,

MOXON & BARTILSON

By:
Laurie J. Bartilson

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 115 Sansome 6~~255 Sunset~~ ~~Boulevard,~~ Suite 400 ~~Suite 2000,~~ San Francisco ~~Hollywood,~~ CA 94104 9~~0028~~.

On September 25, 1995, I served the foregoing document described as PLAINTIFF'S FURTHER REPLY IN SUPPORT OF MOTION FOR SUMMARY ADJUDICATION OF THE THIRTEENTH, SIXTEENTH, SEVENTEENTH AND NINETEENTH CAUSES OF ACTION OF PLAINTIFF'S SECOND AMENDED COMPLAINT on interested parties in this action, by sending a true copy by hand to:

FORD GREENE
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711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

and by U.S. Mail to:

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I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 25, 1995 at Los Angeles, California.

Linda Fong
Print or Type Name

Linda Fong
Signature

8646

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INTERNATIONAL

FILED
SEP 26 1995
HOWARD HANSON
MARIN COUNTY CLERK
BY: D. ROSS, DEPUTY

BY FAX

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiff,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

CASE NO. BC 157680

REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PLAINTIFF'S OBJECTIONS TO ARMSTRONG'S EVIDENCE IN OPPOSITION TO PLAINTIFF'S PENDING MOTIONS FOR SUMMARY ADJUDICATION

DATE: September 29, 1995
TIME: 9:00 a.m.
DEPT: 1

TRIAL DATE: Vacated

RUSH

Plaintiff, Church of Scientology International requests that this Court take judicial notice of the following records of the U.S. District Court for the Central District, State of California, and the U.S. District Court for the Southern District of Ohio:

A. Order filed September 13, 1995 in Proctoer & Gamble Co. v. Bankers Trust Co., Case No. C-1-94-735 in the U.S. District Court for the Southern District of Ohio, a true and correct copy of which is attached hereto as Exhibit A;

B. Minute Order dated August 15, 1995 in the case of Church of Scientology International v. Fishman, et al, Case No. CV 91-6426 HLH in the U. S. District Court for the Central District of California, a true and correct copy of which is attached hereto as Exhibit B.

Dated: September 26, 1995

Respectfully Submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

MOXON & BARTILSON

By: Laurie J. Bartilson
Attorneys for Plaintiff
Church of Scientology
International

8648

FILED
Sept 13, 1995
at 5:45 pm
Kenneth J. Murphy, Clerk
Cincinnati, Ohio

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

PROCTER & GAMBLE CO.,

Plaintiff,

v. C-1-94-735

BANKERS TRUST COMPANY, et al.,

Defendants.

O R D E R

The Court having been advised that certain documents in this case previously filed under seal and subject to a Protective Order which prohibited disclosure without the consent of the parties or the court, have been obtained by The McGraw-Hill Companies, Inc., doing business as Business Week, in a manner not authorized by the Protective Order, and it appearing that the parties will suffer irreparable harm if the contents of these documents are released at this time, it is ORDERED that The McGraw-Hill Companies, Inc., doing business as Business Week, and all persons in privity with The McGraw-Hill Companies, Inc. and such other persons that have notice of this Order, are prohibited from any disclosure of documents filed under seal, or the contents thereof, without the prior consent of this Court.

IT IS SO ORDERED.

John Feikens
United States District Judge

8649

CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES — GENERAL

Case No. CV 91-6426 HLH Date August 15, 1995

Title Church of Scientology International v. Steven Fishman et al.

DOCKET ENTRY

PRESENT:

HON. HARRY L. HUPP, JUDGE

Milli Borgarding — Deputy Clerk

Not Reported — Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS: None Present

ATTORNEYS PRESENT FOR DEFENDANTS: None Present

PROCEEDINGS: In Chambers Proceedings:
Order Sealing Files Pending Court's Final Determination

ORDER (also, if applicable, findings and memorandum opinion):

Scientology's motion to seal specified documents was remanded to this Court by Order of the Ninth Circuit. This Court has taken the matter under submission.

Pending a final order by this Court regarding Scientology's aforementioned motion to seal, all the files in this action are hereby ordered to be sealed.

I hereby attest and [illegible] on 8/16/95
that the foregoing document is a [illegible]
and correct copy of the [illegible] on file in
my office, and in my [illegible]

CLERK U.S. [illegible]
CENTRAL DISTRICT OF CALIFORNIA

By Marilyn Martinez

0123

I HEREBY CERTIFY THAT THIS DOCUMENT WAS SERVED BY FIRST CLASS MAIL, POSTAGE PREPAID, TO ALL COUNSEL (OR PARTIES) AT THEIR RESPECTIVE, MOST RECENT, ADDRESS OF RECORD, IN THIS ACTION, ON THIS DATE.

DATED: 8-15-95

DEPUTY CLERK

Initials of Deputy Clerk Lc

MINUTES FORM 11
CIVIL—GEN

D — M

1116

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FILED

SEP 26 1995

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CHURCH OF SCIENTOLOGY
INTERNATIONAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

BY FAX

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	CASE NO. 157 680 [CONSOLIDATED] DECLARATION OF LAURIE J. BARTILSON IN SUPPORT OF CHURCH OF SCIENTOLOGY INTERNATIONAL'S OBJECTIONS TO EVIDENCE FILED BY GERALD ARMSTRONG IN OPPOSITION TO PENDING SUMMARY ADJUDICATION MOTIONS; REQUEST FOR SANCTIONS DATE: September 29, 1995 TIME: 9:00 a.m. DEPT: 1 TRIAL DATE: Vacated

I, LAURIE J. BARTILSON, hereby declare:

1. I am a member of the law firm of Moxon & Bartilson and am an attorney admitted to practice in the State of California. My firm represents plaintiff Church of Scientology International ("Church") in the instant case. I have personal knowledge of

RUSH

the matters specified in this declaration and, if called upon to testify on such matters, would and could do so competently.

2. On September 18, 1995, my co-counsel, Andy Wilson, called to tell me that he had received ten volumes of evidence from Gerald Armstrong in opposition to the pending summary adjudication motions. He also told me that Armstrong had apparently again filed documents which were copies or re-creations of confidential Church scripture. Because I am familiar with the materials that Armstrong had filed, and Mr. Wilson is not, at my client's request, I then flew to San Francisco to examine the evidence submitted by Armstrong. I discovered that he had, indeed, re-filed previously stricken confidential materials, and I spent much of the night preparing an ex parte application to strike or seal them. I spent the next two days in Marin County, until the exhibits were placed under seal.

3. Armstrong did not initially serve a copy of his evidence on my office. In fact, both he and Mr. Greene, his attorney, told me that they did not intend to do so. However, on September 20, I received a set of exhibits that had been mailed to me on September 19, according to the postmark. The set of exhibits that I received were obviously different from the set that had been served on Mr. Wilson, in that they did not make as tall a stack when the two piles were placed next to each other.

4. I instructed a paralegal to compare the two sets of evidence. After he had done so, I reviewed his work. We found that one entire volume of exhibits with thirty-four different documents was included in the set served on Mr. Wilson, but not

in the set served on me. In addition, other miscellaneous exhibits in the Wilson set which were not included in my set.

5. My normal billing rate is $200 per hour, and I have expended 10 hours in reviewing these documents and preparing this set of evidentiary objections.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 26th of September, 1995, at Los Angeles, California.

Laurie E. Bartilson

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of California, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Boulevar, Suite 2000, Hollywood, CA 90028.

On September 26, 1995, I served the foregoing document described as CHURCH OF SCIENTOLOGY INTERNATIONAL'S OBJECTIONS TO ARMSTRONG'S EVIDENCE IN SUPPORT OF OPPOSITION TO PLAINTIFF'S PENDING MOTIONS FOR SUMMARY ADJUDICATION; MOTION TO STRIKE EVIDENCE; AND REQUEST FOR SANCTIONS FROM GERALD ARMSTRONG AND FORD GREENE [C.C.P. § 437c(i)]; CHURCH OF SCIENTOLOGY INTERNATIONAL'S OBJECTIONS TO ARMSTRONG'S EVIDENCE IN SUPPORT OF OPPOSITION TO PLAINTIFF'S PENDING MOTIONS FOR SUMMARY ADJUDICATION; MOTION TO STRIKE EVIDENCE; AND REQUEST FOR SANCTIONS AGAINST GERALD ARMSTRONG AND FORD GREENE [C.C.P. § 437c(i)]; REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PLAINTIFF'S OBJECTIONS TO ARMSTRONG'S EVIDENCE IN OPPOSITION TO PLAINTIFF'S PENDING MOTIONS FOR SUMMRY ADJUDICATION on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] true copies thereof in sealed envelopes addressed as follows:

GERALD ARMSTRONG
715 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

MICHAEL WALTON
700 Larkspur Landing Circle
Suite 120
Larkspur, CA 9493

[X] BY MAIL

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on ____________ at ______________, California.

[ ] **(BY PERSONAL SERVICE) I delivered such envelopes by hand to the offices of the addressees.

Executed on September 26, 1995, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Print or Type Name

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

LATE

8655

FILED

SEP 26 1995

HOWARD HANSON
MARIN COUNTY CLERK
BY: D. ROSS, DEPUTY

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Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

BY FAX

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiff,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

CASE NO. 157 680

[CONSOLIDATED]

CHURCH OF SCIENTOLOGY INTERNATIONAL'S OBJECTIONS TO ARMSTRONG'S EVIDENCE IN SUPPORT OF OPPOSITION TO PLAINTIFF'S PENDING MOTIONS FOR SUMMARY ADJUDICATION; MOTION TO STRIKE EVIDENCE; AND REQUEST FOR SANCTIONS AGAINST GERALD ARMSTRONG AND FORD GREENE [C.C.P. § 437c(i)]

DATE: September 29, 1995
TIME: 9:30 a.m.
DEPT: 1

TRIAL DATE: None set

RUSH

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I.
INTRODUCTION

Plaintiff, Church of Scientology International ("plaintiff" or "the Church") objects to the evidence submitted by defendant Gerald Armstrong ("Armstrong") as follows:

Plaintiff objects, first, to the consideration by this Court of any of the documents filed by Armstrong in propria persona on September 19, 1995. These include nine (9) or ten (10) volumes labeled "Evidence in Support of Oppositions to Motions for Summary Adjudication of 20th Cause of Action; and 13th, 16th, 17th and 19th Causes of Action of Second Amended Complaint," "Armstrong's Separate Statement of Disputed Facts In Opposition To Motion for Summary Adjudication of the Twentieth Cause of Action of the Second Amended Complaint," and "Armstrong's Separate Statement of Disputed and Undisputed Facts In Opposition to Motion for Summary Adjudication of the 13th, 16th, 17th and 19th Causes of Action of the Second Amended Complaint." Plaintiff objects to these documents in toto because they were filed by Armstrong in pro per after he was represented by counsel; they were filed late; and plaintiff's lawyers were served with different sets of documents, making it impossible for plaintiff to ascertain what actually has been filed with the Court and what has not.

Alternatively, plaintiff asks this Court to strike completely at a minimum those exhibits which it presently holds under seal.[1] The additional grounds for striking these exhibits are that the exhibits are copies, altered versions or descriptions of protected trade secrets and copyrighted material, held by the Church as confidential; they are not relevant to any issue to be determined by this Court; and the exhibits were offered by Armstrong solely for an improper purpose: that is, to use the files of this Court as a soapbox from which to engage in still further breaches of his Agreement with the Church.

The Church also raises specific evidentiary objections to the evidence submitted by Armstrong, most of which is unauthenticated or improperly authenticated, hearsay, opinion, irrelevant, prejudicial and otherwise improperly submitted to the Court.

Finally, the Church seeks sanctions pursuant to C.C.P. Section 437c(i) against Armstrong and his counsel for this massive, bad faith, and improper onslaught of rumor, defamation, and wholesale vilification of an entire religion on the pretense of filing evidence.

II.

ARMSTRONG'S IN PRO PER FILING SHOULD BE STRICKEN IN ITS ENTIRETY

A. A Party May Not File Documents In Pro Per When He is Represented by Counsel.

It is well-established California law that once a party is represented by counsel in a particular proceeding, the client relinquishes direct control over the proceedings. All legal steps must be taken by the attorney and documents filed by the client directly are to be stricken by the court. In People v. Mattson (1959) 51 Cal.2d 777, 336 P.2d 937, the defendant had presented documents on appeal in propria persona although he was represented by counsel. The California Supreme Court refused to consider the defendant's documents, which, in its opinion, "reflect[ed] his misconceptions of and refusal to adhere to established rules of law." 336 P.2d at 952. The defendant's pro per documents (like Armstrong's, voluminous) were stricken in toto. Id.

---

[1] Those exhibits include: Vol. VI, 1(J)(A), 1(J)(M); Vol. VII, 1(J)(A), 1(J)(M); Vol. IX, 2(A), 2(C), 3(B), 5(B), and 7(A); and the exhibits attached to the Greene and Armstrong declarations submitted in opposition to plaintiff's *ex parte* application on September 20, 1995.

Similarly, in Electric Utilities Co. v. Smallpage (1934) 137 Cal.App. 640, 31 P.2d 412, the plaintiff filed points and authorities himself, although he was still represented by an attorney of record. In striking the plaintiff's brief from the record, the court said, "he has no legal authority to appear and file points and authorities or control the proceedings on appeal in his own behalf." Electric Utilities 31 P.2d at 413.

Armstrong had represented himself in this case only briefly - long enough to file for bankruptcy in April, 1995. Mr. Greene, his previous attorney of record, substituted back into the case on September 14, 1995.

When Mr. Greene filed memoranda of points and authorities on behalf of Mr. Armstrong on September 18, 1995, Armstrong simultaneously filed, on his own behalf, two separate statements of disputed facts and ten volumes of evidence in support of those separate statements. All of these documents assert that they area filed by Gerald Armstrong "in propria persona"; and all are signed by Armstrong, not Mr. Greene. Moreover, like the papers filed by the Mattson defendants, Armstrong's massive filings "reflect his misconceptions of and refusal to adhere to established rules of law." Like the Mattson documents, they should be stricken in toto.

B. Armstrong Did Not File Or Serve His Documents Properly

Code of Civil Procedure § 437c(b) provides in relevant part that, "Any opposition to [a motion for summary adjudication] shall be served and filed not less than 14 days preceding the noticed or continued date of the hearing, unless the court for good cause orders otherwise."

Plaintiff's summary adjudication motions have been pending with this Court since February, 1995. They were fully briefed by April, 1995, and this Court was ready to rule. Armstrong had delayed the hearing of the motions for months by firing his attorney (Mr. Greene), and then obtaining extensions of time in which to respond. Apparently still unhappy with his defense, Armstrong further delayed the hearings by filing for bankruptcy on the day this Court was due to issue its tentative ruling.

Nonetheless, this Court generously permitted Armstrong to file still additional papers with the Court, and to do so fewer than 14 days before the re-scheduled hearing. However, Armstrong's counsel asserted that he intended only to file a memorandum of points and authorities, which Armstrong had not filed previously. On September 15, 1995, he was ordered to serve and file the memorandum of points and authorities by 10:00 a.m.

on September 18.

Armstrong did not file anything on the morning of September 18 as ordered [Wilson Dec.]. His failure to file in accordance with the Court's clear order also warrants striking of his exhibits. Further, although he served a set of exhibits on plaintiff's local counsel, Wilson, Ryan & Campilongo, in a timely fashion, Mr. Greene insisted to Ms. Bartilson that these exhibits were not consistent with those eventually filed with this court. Moreover, the ten volumes which were served on September 18, 1995 were not identical to the ten volumes mailed by Armstrong to plaintiff's counsel, with a postmark of September 19, 1995. In fact, one entire volume of exhibits with thirty-four different documents was included in the set served on Wilson, Ryan & Campilongo ("Wilson set") but not included in the set served on Moxon & Bartilson ("Bartilson set") [Declaration of Laurie J. Bartilson in support of Plaintiff's Objection to Armstrong's Evidence]. Further, there were other miscellaneous exhibits in the Wilson set which were not included in the Bartilson set. [Id.]

In short, the evidence was filed late, beyond the time permitted by the Court after it had already graciously given an extension; the evidence was filed by a party although he was represented by counsel and the counsel had previously stated that no upper level materials would be filed; the full evidence was not delivered to both sets of plaintiff's counsel and no good cause exists to permit the evidence to be considered. The ten volumes should, accordingly, be stricken.

Armstrong's "evidence" is merely his attempt to transform this court into a vehicle to enable him to further breach his settlement agreement with the Church. Armstrong is using this court to again air his venom and attempt to continue his breaches of his prior agreements with the Church.

III.
IN THE ALTERNATIVE, THE COURT SHOULD STRIKE THE CONFIDENTIAL EXHIBITS BECAUSE THEY ARE RE-CREATED VERSIONS OF PLAINTIFF'S TRADE SECRETS

Armstrong and other declarant claim that Exhibits 1(J)(A), 1(J)(M), 2(C), 3(B) and 5(B) are copies of "OT III" and/or "Upper Level" materials.[2] "Upper Level" scripture (known as the "Advanced Technology") is scripture which is the product of some of L. Ron Hubbard's advanced researches into the human spirit. The designation "OT III" stands for "Operating Thetan, Level 3," and is part of Scientology's Advanced Technology.[3] Scientology theology provides that the Advanced Technology is kept confidential, and disclosed to Scientology parishioners only when those parishioners have completed the earlier necessary steps in Scientology's path to greater spiritual awareness. The Confidential Exhibits are re-created versions of trade secrets that are kept confidential by the Church, and that must not be kept in the Court's public files.

---

[2] Exhibits 2(A) and 7(A) contain lengthy descriptions of the confidential works, including some trade secrets.

[3] Scientologists refer to the person himself, the being, as a "thetan." The definition of the state of "Operating Thetan" is "knowing and willing cause over life, thought, matter, energy, space and time." To be permitted access to the confidential Advanced Technology, through which a person achieves the state of Operating Thetan, the person must progress first through all the lower, gradient levels of Scientology religious counseling.

The California Civil Code provides that trade secrets, or even matters alleged to be trade secrets, must be protected while they are involved in litigation:

> In an action under this title, a court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include granting protective orders in connection with discovery proceedings, holding in-camera hearings, sealing the records of the action, and ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval.

Civil Code § 3426.5 (emphasis supplied).

Armstrong has filed the Confidential Exhibits in this Court's public files solely to harass plaintiff. He is well aware of plaintiff's interest in the documents as trade secrets. Indeed, the materials in question have been judicially recognized as trade secrets under Civil Code § 3426.1 in Bridge Publications Inc. v. Vien (S.D.Cal. 1993) 827 F.Supp. 629 at 633, citing Religious Technology Center v. Scott (9th Cir. 1989) 869 F.2d 1306, 1309-10 (holding that the Advanced Technology can be protectable as a trade secret).

In Vien, the Court granted summary judgment for trade secret misappropriation, finding these confidential scriptures to be trade secrets as a matter of law. Id. at 633. The Vien court specifically recognized that the confidentiality and security requirements of Civil Code § 3426.1 had been met with respect to the Advanced Technology, and that it had independent economic value. 827 F.Supp. at 633, quoting Murdock v. Commonwealth of Pennsylvania (1943) 319 U.S. 105, 111, 63 S.Ct. 870, 874, 87 L.Ed. 1292; Cal. Civ. Code § 3426.1(d).

The documents in Armstrong's Confidential Exhibits are re-creations of portions of Advanced Technology which the Vien court has already adjudicated to be trade secrets as a matter of law.

While there is other litigation pending in several districts with respect to the trade secret status of these materials, the Vien case is the only case which has reached a final and binding judgment. In no case has a court failed to seal or strike the materials from the public record

The preliminary order of the Colorado District Court cited by Armstrong in previous papers is readily distinguishable. The order in question was just an order denying a preliminary injunction, not a final adjudication as to the trade secrets status of the documents. The only final adjudication of that issue is the Vien case, supra. Moreover, even when the Colorado Court declined to issue a preliminary injunction, it nonetheless entered an order prohibiting the defendants from further copying or disclosure of the materials. Finally, the Court also ordered the sealing of the records in its own Court, so as to protect the materials while the litigation was pending.

Armstrong's interjections of these materials into the Court's files is objectionable not merely because they are trade secrets, but also because a church has a generalized interest in maintaining confidentiality of internal documents both for itself and its parishioners. U.S. v. Hubbard (D.C.Cir. 1980) 650 F.2d 293, 306-07. The Confidential Exhibits are not the subject of this litigation. Armstrong's counsel, Mr. Greene, acknowledged this, and told plaintiff's counsel that he had instructed Armstrong not to file them. Armstrong did so anyway. Armstrong obviously has filed these documents intentionally because he knows they are trade secrets and he wants to harm the Church.

Finally, it is well-established law that a Court may enter a protective order limiting disclosure of civil litigation materials or sealing the court file, and that those judicial actions do not violate the First Amendment.

> Every court has supervisory power over its own records and files, and access has been denied where court files might have become a vehicle for improper purposes. For example, the common-law right of inspection has bowed before the power of a court to insure that its records are not "used to gratify private spite or promote public scandal" through the publication of "the painful and sometimes disgusting details of a divorce case." Similarly, courts have refused to permit their files to serve as reservoirs for libelous statements for press consumption, or as sources of business information that might harm a litigant's competitive standing.

Nixon v. Warner Communications, Inc. 435 U.S. 589 (1978)

In the leading case of Seattle Times Co. v. Rhinehart, 467 U.S. 20 (1984), a newspaper defendant challenged a court order preventing the publication of information obtained during discovery. The defendant claimed it was unconstitutional as a "prior restraint", but the Court rejected that argument and emphasized that "an order prohibiting dissemination of discovered information before trial is not the kind of classic prior restraint that requires exacting First Amendment scrutiny. 467 U.S. at 33 (emphasis added). Indeed, that Court also found that protective orders further "a substantial governmental interest unrelated to the suppression of expression." 467 U.S. at 34. The Court concluded:

> There is an opportunity, therefore, for litigants to obtain -- incidentally or purposefully -- information that not only is irrelevant but if publicly released could be damaging to reputation and privacy. The government clearly has a

> substantial interest in preventing this sort of abuse of its process. CF Herbert v. Lando, 441 U.S. 153, 176-177 (1979); Gumbel v. Pitkin, 124 U.S. 131, 145-146 (1888). As stated by Judge Friendly in International Product Corp. v. Koons, 325 F.2d 403, 407-408 (CA 2 1963), "[w]hether or not the Rule itself authorizes [a particular protective order]... we have no question as to the court's jurisdiction to do this under the inherent 'equitable powers of courts of law over their own process, to prevent abuses, oppression, and injustices'...

Id. at 35-36 (emphasis added) (footnote omitted, citation omitted).

In the wake of Seattle Times, courts have widely held that protective orders may be enforced notwithstanding the assertion of First Amendment rights and have applied that rule of law repeatedly, even for non-parties to the original protective order.

Just last week in the United States District Court in Cincinnati, in a case by Proctor & Gamble against McGraw-Hill, as parent of Business Week magazine, the district court issued a temporary restraining order preventing Business Week from printing information from sealed court documents in a story it was writing, restraining them from disclosing "documents filed under seal or order thereof without the prior consent of this Court." [Request for Judicial Notice, Exhibit A.] The subject matter there was financial information about derivative losses contained in a sealed court file in Procter & Gamble's suit against Bankers Trust New York. Business Week claimed they had lawfully obtained these sealed court documents from a confidential source. Business Week has not been successful in its efforts to overturn this order: the right of the Court to maintain the confidentiality of its sealed files has remained inviolate.

The necessary import of Seattle Times and its progeny including Business Week is that a Court need not permit its files to be used as a public depository for sensitive or confidential materials. Here, Armstrong has improperly filed the Confidential Exhibits and this Court, on plaintiff's application, placed them under seal. Now that the Court has had an opportunity to observe just how irrelevant those documents are to the resolution of the issues in this case, plaintiff requests that the Confidential Exhibits be stricken, and returned to Armstrong, rather than simply sealed. They simply have no place in this Court's files.

IV.
ARMSTRONG AND HIS ATTORNEY SHOULD BE SANCTIONED

Code of Civil Procedure Section 437c(i) provides in relevant part that,

> If the court determines at any time that any of the affidavits are presented in bad faith or solely for the purposes of delay, the court shall order the party presenting the affidavits to pay the other party the amount of the reasonable expenses which the filing of he affidavit caused the other party to incur.

Here, as demonstrated above, Armstrong, with his lawyer's apparent knowledge and consent, improperly filed a two foot high stack of irrelevant, prejudicial, and improper materials in "opposition" to summary adjudication, all in pro per. In addition, Armstrong filed the Confidential Exhibits, for no reason other than to harass and annoy plaintiff. These two have destroyed the resources of the Court with their demand that the Court examine each of these irrelevant and improper particles, and they have destroyed the time of plaintiff's counsel spent in refuting the "evidence," and bringing these objections.

Armstrong and Greene should be sanctioned, jointly and severally, in the amount of $2000.

V.
SPECIFIC EVIDENTIARY OBJECTIONS

Evidence filed in support of or opposition to a summary adjudication motion must consist of affidavits or declarations "made by the person on personal knowledge." C.C.P. §437c(d). They "shall set forth admissible evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavits or declarations." Id. Marin's Local Rules require that declarations "state facts which show that the affiant or declarant has personal knowledge of the facts set forth in the affidavit or declaration." Rule 3.13(S)(1)(a)(ii).

The evidence offered by Armstrong fails to meet the most basic criteria which define when evidence shall be admitted. Plaintiff therefore objects to the evidence as follows:

A. Improper Authentication

Marin County Local Rule 3.13(S)(1)(b) provides that documentary evidence submitted by a party must be accompanied by an affidavit or declaration which identifies and authenticates the document. Parties are also required to comply with the best evidence rule.

The Church objects to the following exhibits offered by Armstrong because they are not original documents, are not properly identified, and/or are not properly authenticated by anyone with personal knowledge of the original document: Ex. 1(A)(A); Ex. 1(A)(B); Ex. 1(A)(E); Ex. 1(A)(F); Ex. 1(A)(G);

Ex. 1(A)(I); Ex. 1(A)(K); Ex. 1(A)(M); Ex. 1(A)(N); Ex. 1(A)(P); Ex. 1(A)(Q); Ex. 1(B)(B); Ex. 1(B)(C); Ex. 1(B)(D); Ex. 1(B)(E); Ex. 1(B)(F); Ex. 1(B)(G); Ex. 1(B)(K); Ex. 1(B)(L); Ex. 1(B)(M); Ex. 1(B)(N); Ex. 1(B)(O) and all exhibits thereto; Ex. 1(B)(P) and all exhibits thereto; Ex. 1(B)(Q) and all exhibits thereto; Ex. 1(E) and all exhibits thereto; Ex. 1(F); Ex. 1(G)(A); Ex. 1(G)(B); Ex. 1(G)(C); Ex. 1(G)(M); Ex. 1(G)(P); Ex. 1(H)(F); Ex. 1(I)(E); Ex. 1(I)(J); Ex. 1(J)(A); Ex. 1(J)(B); Ex. 1(J)(C); Ex. 1(J)(D); Ex. 1(J)(E); Ex. 1(J)(G); Ex. 1(J)(I); Ex. 1(J)(K); Ex. 1(J)(L); Ex. 1(J)(M); Ex. 1(J)(N); Ex. 1(K); Ex. 1(R); Ex. 1(S); Ex. 1(T); Ex. 1(U); Ex. 1(Y); Ex. 1(CC); Ex. 2; Ex. 2(A); Ex. 2(B); Ex. 2(C); Ex. 3(A); Ex. 3(B); Ex. 4; Ex. 4(A); Ex. 4(B); Ex. 5(A); Ex. 5(B); Ex. 6; Ex. 6(A); Ex. 6(B); Ex. 7; Ex. 7(A); Ex. 7(B); Ex. 8.

B. Hearsay

Hearsay is not permitted as evidence in opposition to a summary adjudication motion. Further, "[s]tatements in declaration on information and belief are hearsay and will be disregarded." Rule 3.13(S)(1)(a)(v). Plaintiff objects to the following exhibits because they consist almost entirely of hearsay and inadmissible statements of belief: Ex. 1, 1:3-11:20; 12:27-14:6; 14:22-17:20; 18:13-23; 22:5-30:25; Ex. 1(A)1-4, 7-22; Ex. 1(A)(E); Ex. 1(A)(L); Ex. 1(B)1-6, 9-18; Ex. 1(B)(H); Ex. 1(B)(J); Ex. 1(B)(K); Ex. 1(B)(L); Ex. 1(B)(O)1:25-11:18; Ex. 1(B)(P) 1:9-16:8; Ex. 1(B)(Q)1:15-7:23; Ex. 1(E)(E)1-10; Ex. 1(E)(I); Ex. 1(E)(J); Ex. 1(E)(K); Ex. 1(G)3:25-16:1; Ex. 1(I)(B); Ex. 1(I)(E); Ex. 1(I)(J); Ex. 1(J)2:1-8:21;

Ex. 1(K)1:26-5:12; Ex. 2, 1:15-17:26; Ex. 2(A), 1:14-25, 3:12-4:1, 5:14-7:24, 8:5-23:10, 29:25-79:18; Ex. 3, 1:19-4:8; Ex. 4, 1:13-3:17; Ex. 4(A); Ex. 5, 1:12-3:15; Ex. 6, 1:23-4:6; Ex. 7, 1-5; Ex. 8, 1:10-4:18; Ex. 10, 1:23-25:4.

C. Opinion

Evidence in the form of a lay person's opinion is inadmissible. The following exhibits consist of opinion's offered by Armstrong or others and are inadmissible: Ex. 1, 1:3-11:20; 12:27-14:6; 14:22-17:20; 18:13-23; 22:5-30:25; Ex. 1(A)1-4, 7-22; Ex. 1(A)(L); Ex. 1(B)1-6, 15-18; Ex. 1(B)(O)1:25-11:18; Ex. 1(B)(P) 1:9-16:8; Ex. 1(B)(Q)1:15-7:23; Ex. 1(E)(E)1-10; Ex. 1(G)3:25-16:1; Ex. 1(I)(A); Ex. 1(J)1:8-2:23, 3:14-4:15, 5:7-16, 6:12-8:21; Ex. 2, 1:15-17:26, Ex. 2(A), 1:14-25, 5:2-11, 8:5-23:10, 25:29-79:18; Ex. 3, 1:19-4:8; Ex. 4, 1:13-3:17; Ex. 4(A); Ex. 5, 1:12-3:15; Ex. 6, 1:23-4:6; Ex. 7, 1-5; Ex. 8, 1:10-4:18; Ex. 10, 1:23-25:4.

D. Lack of Personal Knowledge

The bulk of the statements made by Armstrong and his witnesses consist of conclusions for which no foundation showing any personal knowledge is laid. Plaintiff objects to the admission of the following evidence on the grounds that the declarant has not supplied facts demonstrating personal knowledge of the facts alleged: Ex. 1, 1:3-11:20; 12:27-14:6; 14:22-17:20; 18:13-23; 22:5-30:25; Ex. 1(A)(L); Ex. 1(B)1-6, 9-18; Ex. 1(B)(O)1:25-11:18; Ex. 1(B)(P) 1:9-16:8; Ex. 1(B)(Q)1:15-7:23; Ex. 1(E)(E)1-10; Ex. 1(G)3:25-16:1; Ex. 1(I)(A); Ex. 6, 1:23-4:6; Ex. 7, 1-5; Ex. 8, 1:10-4:18; Ex. 10, 1:23-25:4.

E. Irrelevant

Evidence which is not relevant to any material issue raised by pending motions is inadmissible. Plaintiff objects to the admission of the following evidence on the grounds that it is not relevant to any matter presently at issue: Ex. 1; Ex. 1(A); Ex. 1(A)(A); Ex. 1(A)(B); Ex. 1(A)(C); Ex. 1(A)(D); Ex. 1(A)(E); Ex. 1(A)(F); Ex. 1(A)(G); Ex. 1(A)(I); Ex. 1(A)(K); Ex. 1(A)(L); Ex. 1(A)(M); Ex. 1(A)(N); Ex. 1(A)(O); Ex. 1(A)(P); Ex. 1(A)(Q); Ex. 1(B); Ex. 1(B)(B); Ex. 1(B)(C); Ex. 1(B)(D); Ex. 1(B)(E); Ex. 1(B)(F); Ex. 1(B)(G); Ex. 1(B)(H); Ex. 1(B)(I); Ex. 1(B)(J); Ex. 1(B)(K); Ex. 1(B)(L); Ex. 1(B)(M); Ex. 1(B)(N); Ex. 1(B)(O) and all exhibits thereto; Ex. 1(B)(P) and all exhibits thereto; Ex. 1(B)(Q) and all exhibits thereto; Ex. 1(C) and all exhibits thereto; Ex. 1(D) and all exhibits thereto; Ex. 1(E) and all exhibits thereto; Ex. 1(J) and all exhibits thereto; Ex. 1(K); Ex. 1(O); Ex. 1(P); Ex. 1(Q); Ex. 1(S); Ex. 1(T); Ex. 1(U); Ex. 1(V); Ex. 1(W); Ex. 1(X); Ex. 1(Y); Ex. 1(AA); Ex. 1(CC); Ex. 2 and all exhibits thereto; Ex. 3 and all exhibits thereto; Ex. 4 and all exhibits thereto; Ex. 5 and all exhibits thereto; Ex. 1(G); Ex. 1(G)(A); Ex. 1(G)(B); Ex. 1(G)(C); Ex. 1(G)(M); Ex. 1(G)(N); Ex. 1(G)(O); Ex. 1(G)(P); Ex. 1(H)(F); Ex. 1(H)(P); Ex. 1(H)(R); Ex. 1(H)(R)(A); Ex. 1(H)(R)(X); Ex. 1(H)(R)(CC); Ex. 1(H)(R)(DD); Ex. 1(H)(R)(EE); Ex. 1(H)(R)(FF); Ex. 1(H)(S); Ex. 1(H)(Z); Ex. 1(H)(CC); Ex. 1(H)(DD); Ex. 1(I); Ex. 1(I)(A); Ex. 1(I)(II); Ex. 6 and all exhibits thereto; Ex. 7 and all exhibits thereto; Ex. 8 and all exhibits thereto; Ex. 10; Ex. 10(A).

F. More Prejudicial Than Probative

Armstrong has supplied scores of documents which offer no facts probative of the dispute before this Court, but which simply excoriate the Church, its lawyers, its religion, and/or its adherents. This evidence is as offensive as it is irrelevant. Pursuant to Evidence Code §352, it should be stricken: Ex. 1, 1:3-11:20; 12:27-14:6, 14:22-17:20; 18:13-23; 22:5-30:25; Ex. 1(A); Ex. 1(A)(A); Ex. 1(A)(E); Ex. 1(A)(L); Ex. 1(A)(M); Ex. 1(A)(P); Ex. 1(A)(Q); Ex. 1(B); Ex. 1(B)(H); Ex. 1(B)(M); Ex. 1(B)(N); Ex. 1(B)(O) and all exhibits thereto; Ex. 1(B)(P) and all exhibits thereto; Ex. 1(B)(Q) and all exhibits thereto; Ex. 1(E) and all exhibits thereto; Ex. 1(G); Ex. 1(G)(A); Ex. 1(G)(B); Ex. 1(G)(C); Ex. 1(G)(M); Ex. 1(G)(N); Ex. 1(G)(O); Ex. 1(G)(P); Ex. 1(H)(F); Ex. 1(H)(P); Ex. 1(H)(R); Ex. 1(H)(R)(A); Ex. 1(H)(R)(X); Ex. 1(H)(R)(DD); Ex. 1(H)(R)(EE); Ex. 1(H)(R)(FF); Ex. 1(H)(S); Ex. 1(H)(Z); Ex. 1(H)(CC); Ex. 1(H)(DD); Ex. 1(I); Ex. 1(I)(A); Ex. 1(I)(B); Ex. 6 and all exhibits thereto; Ex. 7 and all exhibits thereto; Ex. 8 and all exhibits thereto; Ex. 10; Ex. 10(A).

G. Duplicative

It is unnecessary and wasteful to load the Court's files with copy after copy of lengthy documents in response to a single motion, but Armstrong has done just that. Plaintiff objects to the admission of the following documents on the grounds that they are copies of documents previously filed by either plaintiff or Armstrong in connection with the pending summary adjudication motions: Ex. 1(B)(A); Ex. 1(E)(E)(1); Ex. 1(H); all of Volume

VIII; Ex. 4 and all exhibits thereto.

H. Filed In Violation of Court Orders

Finally, Armstrong has included amongsth his massive Court filings documents which are protected by the sealing orders of various courts. Armstrong should not be permitted to use the files of this Court to violate court orders. Plaintiff accordingly moves that the following documents, submitted in violation of sealing orders of the respective courts in which the documents were first filed, be stricken: (1) Documents from the case file in Church of Scientology International v. Fishman, et al., sealed on August 15, 1995 [Ex. B to Request for Judicial Notice: Ex. 2(A) and exhibits thereto (Declaration of Hana Whitfield); (2) Documents from the case file in Margery Wakefield v. Church of Scientology of California, et al., Exhibit 4(B) (In Camera Motion to Show Cause Why Plaintiff Should Not Be Held in Criminal Contempt).

VI.
CONCLUSION

The evidence filed by Armstrong is untimely, irrelevant, seeks to expose plaintiff's trade secrets and should not be considered as it was filed in propria persona although he was represented by counsel. Plaintiff asks this Court to strike all of the ten volumes of "evidence" or, in the alternative, to strike the Confidential Exhibits. Plaintiff also requests that Armstrong and Mr. Greene be sanctioned, pursuant to C.C.P. § 437c(i), in the amount of $2,000. Finally, in the alternative, plaintiff has provided specific objections to Armstrong's late-filed evidence, and requests that it be stricken accordingly.

Dated: September 25, 1995

Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

MOXON & BARTILSON

By:
Laurie J. Bartilson
Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL

ORIGINAL

(SPACE BELOW PROVIDED FOR FILING STAMP ONLY)

8676

Law Offices
HUB LAW OFFICES
711 Sir Francis Drake Boulevard
San Anselmo, California 94960
(415) 258-0360

FORD GREENE, Bar # 107601

Attorney for Defendant
GERALD ARMSTRONG

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiff,

vs.

GERALD ARMSTRONG; MICHAEL WALTON; THE GERALD ARMSTRONG CORPORATION, a California for-profit corporation; DOES 1 through 100, inclusive,

Defendants.

No. 157 680

NOTICE OF LODGING OF VIDEOTAPE IN OPPOSITION TO MOTION FOR SUMMARY ADJUDICATION OF 13TH, 16TH, 17TH AND 19TH CAUSES OF ACTION

Date: 9/29/95
Time: 9:00 a.m.
Dept: One (1)

Defendant Gerald Armstrong attaches hereto the videotape referred to at pp. 11:5-12:1 of Exhibit 10 of Armstrong's evidence in opposition to motion for summary adjudication of the 13th, 16th, 17th and 19th causes of action.

DATED: September 26, 1995

HUB LAW OFFICES

By: ____________________
FORD GREENE
Attorney for Defendant
GERALD ARMSTRONG

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents:

NOTICE OF LODGING OF VIDEOTAPE IN OPPOSITION TO MOTION FOR SUMMARY ADJUDICATION OF THE 13TH, 16TH, 17TH AND 19TH CAUSES OF ACTION

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

Andrew Wilson, Esquire
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

LAURIE J. BARTILSON,ESQ.
Bowles & Moxon
6255 Sunset Boulevard
Suite 2000
Los Angeles, California 90028

[ ] (Personal Service) I caused such envelope to be delivered by hand to the offices of the addressee.

[X] (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.

[X] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: September 26, 1995

MARIN COUNTY COURTS
LAW & MOTION - IL CALENDAR
October 1995

R03100
10/05/95

9:00 am DEPARTMENT: 01 Honorable Gary W. Thomas **REPORTER: E. PASSARIS** **CLERK: J. BANKSON**

CASE #	INV.	PERSON/PARTY NAME	ATTORNEY FIRM	HEARING TYPE
** ADD-ON APPEARANCES **				
19- CIV 153911		**JOHN V. WALSH VS. PAUL VESTAL**		
	PLTF:	WALSH, JOHN V.	Dolan, Christopher Martin, present	MOTION TO CONTINUE TRIAL DATE
	DEFT:	HARLOW, KAY	GRAHAM, GRETTA JOYCE	(DEFT) TRI REALTORS (DEFT)
	DEFT:	SHELTER BAY HOMEOWNERS ASSOCI	Lynch Loofbourrow et al VIERRA, KENNETH F.	BARBARA SPECTOR
	DEFT:	SPECTOR, BARBARA	Calvert-Banks, Eunice Mary Lynn Apelrod	
	DEFT:	THE AMERICAN HOME COMPANY	Lynch Loofbourrow et al VIERRA, KENNETH F., present	
	DEFT:	TRI REALTORS	Calvert-Banks, Eunice Mary	
	DEFT:	VALLEY OF CALIFORNIA, INC.	GRAHAM, GRETTA JOYCE	
	DEFT:	VESTAL, PAUL	PRO PER	

MOTION TO CONTINUE TRIAL DATE IS GRANTED. THE NEW TRIAL DATE IS ~~JUNE 6~~, Feb. 29, 1996 AT 10:00 A.M. (SEE RULES OF COURT 375(a).) (2 week estimated trial) Settlement Conference set for Feb. 5, 1996 at 9:00 am. in Dept. One.

CASE #	INV.	PERSON/PARTY NAME	ATTORNEY FIRM	HEARING TYPE
20- CIV 157680		**CHURCH OF SCIENTOLOGY INTERNATIONAL VS. GERALD ARMSTRONG ET AL**		
	PLTF:	CHURCH OF SCIENTOLOGY INTERNA	BARTILSON, LAURIE J., present Wilson, Ryan Et Al Wilson, Andrew Harris, present	MOTION FOR SUMMARY ADJUDICATION (PLTF) CHURCH OF SCIENTOLOGY INTERNATIONAL
	DEFT:	ARMSTRONG, GERALD	GREENE, FORD, present	
	DEFT:	BEHBEHANI-WALTON, SOLINA		
	DEFT:	THE GERALD ARMSTRONG CORPORAT	PRO PER	
	DEFT:	WALTON, MICHAEL	PRO PER	
	CRCO:	ARMSTRONG, GERALD	PRO PER	
	CRDF:	CHURCH OF SCIENTOLOGY INTERNA	BARTILSON, LAURIE J. Wilson, Ryan Et Al Wilson, Andrew Harris	

SEE ATTACHED 12-A.

SUPERIOR COURT, MA I COUNTY, CALIFORNIA PAGE: 12-A
LAW & MOTION, CIVIL CALENDAR
RULINGS

TIME: 9:00 DATE: OCTOBER 6, 1995 DEPT: 1
JUDGE: GARY W. THOMAS REPORTER: E. PASSARIS CLERK: J. BANKSON
CASE NO: 157680 TITLE OF ACTION: CHURCH SCIENTOLOGY V. ARMSTRONG

PLAINTIFF'S MOTIONS FOR SUMMARY ADJUDICATION ARE GRANTED.

AS TO THE THIRTEENTH, SIXTEENTH, SEVENTEENTH AND NINETEENTH CAUSES OF ACTION, PLAINTIFF HAS MET ITS BURDEN OF SHOWING THAT DEFENDANT BREACHED THE SETTLEMENT AGREEMENT AND THAT IT IS ENTITLED TO LIQUIDATED DAMAGES OF $50,000 FOR EACH BREACH. DEFENDANT HAS FAILED TO RAISE A TRIABLE ISSUE AS TO ANY OF THE CAUSES OF ACTION, AS FOLLOWS:

INVALIDITY OF LIQUIDATED DAMAGES PROVISION: DEFENDANT'S EVIDENCE REGARDING HIS ATTORNEYS' FAILURE TO REPRESENT HIS INTERESTS (SEE FACTS 43 AND 68) IS HEARSAY AND/OR NOT BASED ON PERSONAL KNOWLEDGE. THE OPINION OF DEFENDANT'S ATTORNEY AS TO THE VALIDITY OF THE PROVISION (SEE, E.G., FACTS 52-54, 57-60) IS IRRELEVANT AND HEARSAY. THE FACT THAT TWO OTHER CLIENTS SIGNED A SETTLEMENT AGREEMENT CONTAINING THE SAME LIQUIDATED DAMAGES AMOUNT (SEE FACTS 55-56 AND 63-64) DOES NOT RAISE AN INFERENCE THAT THE PROVISION WAS UNREASONABLE. DEFENDANT'S EVIDENCE IS INSUFFICIENT TO RAISE A REASONABLE INFERENCE OF UNEQUAL BARGAINING POWER (NO PERSONAL KNOWLEDGE SHOWN THAT PLAINTIFF, AS OPPOSED TO FLYNN, POSITIONED DEFENDANT AS A "DEAL BREAKER"; FLYNN'S STATEMENTS HEARSAY; NO PERSONAL KNOWLEDGE SHOWN OF PLAINTIFF'S WEALTH; WEALTH ALONE DOES NOT RAISE INFERENCE OF UNEQUAL BARGAINING POWER SINCE NO SHOWING DEFENDANT DESPERATE FOR MONEY AND HAD TO ACCEPT ON PLAINTIFF'S TERMS). DEFENDANT'S EVIDENCE DOES NOT RAISE AN INFERENCE THAT PLAINTIFF'S CALCULATION IS "UNFATHOMABLE" (FOURTEENTH CAUSE OF ACTION SEEKS $50,000 FOR EACH OF 18 LETTERS; NINETEENTH CAUSE OF ACTION IS BASED ONLY ON DECLARATIONS, NOT ON OTHER CONTACTS BETWEEN DEFENDANT AND ATTORNEY/OTHER CLIENTS). DEFENDANT FAILS TO ESTABLISH HOW HE KNOWS PLAINTIFF HAD NOT BEEN INJURED BY HIS STATEMENTS AT THE TIME OF SETTLEMENT.

DURESS: FLYNN'S STATEMENTS TO DEFENDANT ARE HEARSAY. (SEE, E.G., D'S FACTS 1C AND 1D.) FURTHER DEFENDANT HAS NOT SHOWN THAT PLAINTIFF WAS AWARE OF FLYNN'S PURPORTED DURESS OF DEFENDANT. (SEE *LEEPER* V. *BELTRAMI* (1959) 53 CAL.2D 195, 206.) CONTRARY TO DEFENDANT'S STATEMENT ABOUT DURESS, "CAREFUL WEIGHING OF OPTIONS" IS COMPLETELY INCONSISTENT WITH AN ABSENCE "OF THE FREE EXERCISE OF HIS WILL POWER" OR HIS HAVING "NO REASONABLE ALTERNATIVE TO SUCCUMBING." (SEE *PHILIPPINE EXPERT & FOREIGN LOAN GUARANTEE CORP.* V. *CHUIDIAN* (1990) 218 CAL.APP.3D 1058, 1078; *IN RE MARRIAGE OF BALTINS* (1989) 212 CAL.APP.3D 66, 84.)

(CONTINUED TO PAGE 12-A-1.)

SUPERIOR COURT, MI N COUNTY, CALIFORNIA PAGE: 12-A-1

LAW & MOTION, CIVIL CALENDAR

RULINGS

TIME: 9:00 **DATE:** OCTOBER 6, 1995 **DEPT:** 1

JUDGE: GARY W. THOMAS **REPORTER:** E. PASSARIS **CLERK:** J. BANKSON

CASE NO: 157680 **TITLE OF ACTION:** CHURCH SCIENTOLOGY V. ARMSTRONG

FRAUD: FLYNN'S STATEMENTS TO DEFENDANT (SEE FACT 78) ARE HEARSAY. THE COURT FINDS THAT THE PORTIONS OF THE AGREEMENT CITED BY DEFENDANT (SEE FACTS 79 AND 80) DO NOT ESTABLISH A MUTUAL CONFIDENTIALITY REQUIREMENT. PARAGRAPH 7(I) ONLY PROHIBITS THE PARTIES FROM DISCLOSING INFORMATION IN LITIGATION BETWEEN THE PARTIES; PARAGRAPH 18(D) ONLY PROHIBITS DISCLOSURE OF THE TERMS OF THE SETTLEMENT; DEFENDANT HAS NOT SHOWN THAT PLAINTIFF DID EITHER OF THOSE THINGS. FURTHER, "[S]OMETHING MORE THAN NONPERFORMANCE IS REQUIRED TO PROVE THE DEFENDANT'S INTENTION NOT TO PERFORM HIS PROMISE." (*TENZER* V. *SUPERSCOPE, INC.* (1985) 39 CAL.3D 18, 30-31.)

NO SPECIFIC PERFORMANCE, BREACH OF EXPRESS AND IMPLIED COVENANT: DEFENDANT RELIES ON THE PURPORTED MUTUALITY REQUIREMENT, WHICH HE HAS FAILED TO ESTABLISH.

OBSTRUCTION OF JUSTICE: THIS ARGUMENT WAS REJECTED BY THE COURT IN CONNECTION WITH PLAINTIFF'S PREVIOUS MOTION FOR SUMMARY ADJUDICATION. (SEE 2/22/95 ORDER AT ¶6.)

FIRST AMENDMENT: FIRST AMENDMENT RIGHTS MAY BE WAIVED BY CONTRACT. (SEE *ITT TELECOM PRODUCTS CORP.* V. *DOOLEY* (1989) 214 CAL.APP.3D 307, 319.)

AS TO THE TWENTIETH CAUSE OF ACTION, THE COURT WILL NOT ORDER DEFENDANT TO REMOVE INFORMATION FROM FACTNET. PLAINTIFF'S OWN EVIDENCE SHOWS THAT DEFENDANT IS NO LONGER A DIRECTOR OR OFFICER OF FACTNET (SEE P'S EX. 1CCCC AT 955:1-4), AND PLAINTIFF SETS FORTH NO FACTS OR EVIDENCE SHOWING THAT DEFENDANT HAS THE PRESENT ABILITY TO REMOVE INFORMATION FROM FACTNET. IN ADDITION, PLAINTIFF HAS NOT ESTABLISHED THAT ALL OF THE MATERIALS IN FACTNET'S POSSESSION WERE SUPPLIED BY DEFENDANT. IN ALL OTHER RESPECTS, THE MOTION AS TO THE TWENTIETH CAUSE OF ACTION IS GRANTED.

THE PLAINTIFF HAS ASKED THAT THE EXHIBITS WHICH WERE PREVIOUSLY ORDERED SEALED BE STRICKEN AS THEY ARE TRADE SECRETS, IRRELEVANT TO THIS MOTION. THIS REQUEST IS GRANTED. THEY ARE NOT RELEVANT. FURTHER, THEY WERE FILED BY MR. ARMSTRONG IN PRO PER WHEN HE IS, IN FACT, REPRESENTED BY COUNSEL.

Tentative ruling becomes final.

8681

FILED
OCT 17 1995
HOWARD HANSON
MARIN COUNTY CLERK
by J. Steele, Deputy

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Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	CASE NO. BC 157680 CMT 10/17/95 [~~PROPOSED~~] ORDER OF SUMMARY JUDGMENT AS TO THE THIRTEENTH, SIXTEENTH, SEVENTEENTH, AND NINETEENTH CAUSES OF ACTION DATE: October 6, 1995 TIME: 9:00 a.m. DEPT: 1 TRIAL DATE: Vacated

This matter came on for hearing on October 6, 1995, on motion of plaintiff Church of Scientology International ("the Church") for Summary Adjudication of the Thirteenth, Sixteenth, Seventeenth, and Nineteenth Causes of Action of the Second Amended Complaint. Plaintiff Church of Scientology International

ENTERED

appeared by its attorneys, Andrew H. Wilson of Wilson, Ryan & Campilongo and Laurie J. Bartilson of Bowles & Moxon, defendant Armstrong appeared by his attorney, Ford Greene. Having read and considered the moving and opposing papers, and the evidence and arguments presented therein and at the hearing, and good cause appearing:

IT IS ORDERED:

1. The Motion of Plaintiff for Summary Adjudication of Issues as to the Thirteenth, Sixteenth, Seventeenth, and Nineteenth Causes of Action of the Second Amended Complaint is GRANTED in favor of Plaintiff, Church of Scientology International, and against Defendant, Gerald Armstrong, in the amount of $200,000.

Plaintiff has met its burden of showing that defendant breached the settlement agreement and that it is entitled to liquidated damages of $50,000 for each breach. Defendant has failed to raise a triable issue as to any of the causes of action, as follows:

INVALIDITY OF LIQUIDATED DAMAGES PROVISION: Defendant's evidence regarding his attorneys' failure to represent his interests (see Facts 43 and 68) is hearsay and/or not based on personal knowledge. The opinion of defendant's attorney as to the validity of the provision (see, e.g., Facts 52-54, 57-60) is irrelevant and hearsay. The fact that two other clients signed a settlement agreement containing the same liquidated damages amount (see Facts 55-56 and 63-64) does not raise an inference that the provision was unreasonable. Defendant's evidence is insufficient to raise a reasonable inference of unequal bargaining power (no personal knowledge shown that plaintiff, as opposed to Flynn, positioned defendant as a "deal breaker"; Flynn's statements hearsay; no personal knowledge shown of plaintiff's wealth; wealth alone does not raise inference of unequal bargaining power since no showing defendant desperate for money and had to accept on plaintiff's terms). Defendant's evidence does not raise an inference that plaintiff's calculation is "unfathomable" (Fourteenth Cause of Action seeks $50,000 for each of 18 letters; Nineteenth Cause of Action is based only on declarations, not on other contacts between defendant and attorney/other clients). Defendant fails to establish how he knows plaintiff had not been injured by his statements at the time of settlement.

DURESS: Flynn's statements to defendant are hearsay. (See, e.g., D's Facts 1C and 1D.) Further, defendant has not shown that plaintiff was aware of Flynn's purported duress of defendant. (See *Leeper v. Beltrami* (1959) 53 Cal.2d 195, 206.) Contrary to defendant's statement about duress, "careful weighing of options" is completely inconsistent with an absence "of the free exercise of his will power" or his having "no reasonable alternative to succumbing." (See *Philippine Expert & Foreign Loan Guarantee Corp. v. Chuidian* (1990) 218 Cal.App.3D 1058, 1078; *In Re Marriage of Baltins* (1989) 212 Cal.App.3D 66, 84.)

FRAUD: Flynn's statements to defendant (see Fact 78) are hearsay. The Court finds that the portions of the agreement cited by defendant (see Facts 79 and 80) do not establish a mutual confidentiality requirement. Paragraph 7(I) only prohibits the parties from disclosing information in litigation between the parties; paragraph 18(D) only prohibits disclosure of the terms of the settlement; defendant has not shown that plaintiff did either of those things. Further, "[s]omething more than nonperformance is required to prove the defendant's intention not to perform his promise." (*Tenzer v. Superscope, Inc.* (1985) 39 Cal.3d 18, 30-31).

NO SPECIFIC PERFORMANCE, BREACH OF EXPRESS AND IMPLIED COVENANT: Defendant relies on the purported mutuality requirement, which he has failed to establish.

FIRST AMENDMENT: First Amendment rights may be waived by contract. (See *ITT Telecom Products Corp. v. Dooley* (1989) 214 Cal.App.3D 307, 319.)

2. The plaintiff has asked that the exhibits which were previously ordered sealed be stricken as they are trade secrets, irrelevant to this motion. This request is GRANTED. They are not relevant. Further, they were filed by Mr. Armstrong *in pro per* when he is, in fact, represented by counsel.

Dated: October 17, 1995

Gary W. Thomas
GARY W. THOMAS
Judge of the Superior Court

Approved as to form:

Ford Greene
Attorney for Defendants Gerald
Armstrong and the Gerald Armstrong
Corporation

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FILED
OCT 17 1995
HOWARD HANSON
MARIN COUNTY CLERK
by J. Steele, Deputy
J Steele

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiff,

vs.

GERALD ARMSTRONG; DOES 1 through 25, Inclusive,

Defendants.

CASE NO. BC 157680

Court 10/17/95

~~[PROPOSED]~~

ORDER OF PERMANENT INJUNCTION

DATE: October 6, 1995
TIME: 9:00 a.m.
DEPT: 1

TRIAL DATE: Vacated

This matter came on for hearing on October 6, 1995, on motion of plaintiff Church of Scientology International ("the Church") for Summary Adjudication of the Twentieth Cause of Action of the Second Amended Complaint. Plaintiff Church of Scientology International appeared by its attorneys, Andrew H. Wilson of Wilson, Ryan & Campilongo and Laurie J. Bartilson of Bowles & Moxon,

ENTERED

defendant Armstrong appeared by his attorney, Ford Greene. Having read and considered the moving and opposing papers, and the evidence and arguments presented therein and at the hearing, and good cause appearing:

IT IS ORDERED:

The Church's motion for summary adjudication of the twentieth cause of action of the Second Amended Complaint is GRANTED. The Court finds that there is no triable issue of material fact as to any of the following:

1. Plaintiff and defendant freely and voluntarily entered into a Mutual Release of All Claims and Settlement Agreement ("Agreement") in December, 1986.

2. Plaintiff performed all of its obligations pursuant to the Agreement.

3. Defendant Armstrong received substantial consideration for the promises which he made in the Agreement.

4. Since 1990, defendant Armstrong has repeatedly breached paragraphs 7(D), 7(E), 7(H), 7(G), 10, 18(D) and 20 of the Agreement.

5. Between 1991 and the present, Armstrong breached paragraphs 7(G), 7(H) and 10 of the Agreement by providing voluntary assistance, exclusive of testimony made pursuant to a valid subpoena, to the following private individuals, each of whom was pressing a claim or engaged in litigation with plaintiff and/or one or more of the designated beneficiaries of the Agreement:

* Vicki and Richard Aznaran, anti-Scientology litigants in the case of Vicki Aznaran, et al. v. Church of Scientology International, United States District Court for the Central District of California, Case No. CV 88-1786 (JMI) [Sep.St.Nos. 11-16];

* Joseph A. Yanny, anti-Scientology litigant in the case of Religious Technology Center et al. v. Joseph Yanny, et al., Los Angeles Superior Court No. C 690211 and Religious Technology Center et al. v. Joseph Yanny, et al., Los Angeles Superior Court No. BC 033035 [Sep.St.Nos. 17-

20];

- Malcolm Nothling, anti-Scientology litigant in the matter between Malcolm Nothling and the Church of Scientology in South Africa, Adi Codd, Diane Kemp, Glen Rollins; Supreme Court of South Africa (Witwatzbsrand Local Division) Case No. 19221/88. [Sep.St.Nos. 21-24];

- Reader's Digest Corporation, anti-Scientology litigant in the case of Church of Scientology of Lausanne vs. Kiosk AG, Basel, Switzerland [Sep.St.Nos. 25-26];

- Richard Behar, anti-Scientology litigant in the case of Church of Scientology International v. Time Warner, Inc.; Time Inc. Magazine Company and Richard Behar, United States District Court, Southern District of New York, Case No. 92 Civ. 3024 PKL [Sep.St.Nos. 27-28];

- Steven Hunziker, anti-Scientology litigant in the case of Hunziker v. Applied Materials, Inc., Santa Clara Superior Court Case No. 692629 [Sep.St.Nos. 29-33];

- David Mayo, anti-Scientology litigant in the case of Religious Technology Center v. Robin Scott, et al., United States District Court for the Central District of California, Case No. 85-711 [Sep.St.Nos. 34-35];

- Cult Awareness Network, anti-Scientology litigant in the case of Cult Awareness Network v. Church of Scientology International, et al., Circuit Court of Cook County, Illinois, No. 94L804 [Sep.St.Nos. 38-39];

- Lawrence Wollersheim, anti-Scientology litigant in the cases of Lawrence Wollersheim v. Church of Scientology of California, Los Angeles Superior Court Number C332027 and Church of Scientology of California v. Lawrence Wollersheim, Los Angeles Superior Court Number BC074815 [Sep.St.Nos. 40-42];

- Ronald Lawley, anti-Scientology litigant in the cases of Religious Technology Center, et al. vs. Robin Scott, et al., U.S. District Court, Central

District of California, Case No. 85-711 MRP(Bx); Matter Between Church of Scientology Advanced Organization Saint Hill Europe and Africa, and Robin Scott, Ron Lawley, Morag Bellmaine, Stephen Bisbey in the High Court of Justice Queen's Bench Division, Case 1984 S No. 1675; and Matter Between Church of Scientology Religious Education College Inc., and Nancy Carter, Ron Lawley, Steven Bisbey, in the High Court of Justice Queen's Bench Division, Case 1986 C No. 12230 [Sep.St.Nos. 43-44];

- Uwe Geertz and Steven Fishman, anti-Scientology litigants in the case of Church of Scientology International v. Steven Fishman, et al., United States District Court for the Central District of California Number 91-6426 HLH(Tx) [Sep.St.Nos. 45-46];
- Tilly Good, a claimant against the Church of Scientology, Mission of Sacramento Valley [Sep.St.Nos. 36-37];
- Denise Cantin, a claimant against the Church of Scientology of Orange County; Church of Scientology of Boston; and Church of Scientology, Flag Service Organization [Sep.St.Nos. 36-37]; and
- Ed Roberts, a claimant against the Church of Scientology of Stevens Creek [Sep.St.Nos. 36-37].

6. Between 1992 and the present, Armstrong breached paragraph 7(D) of the Agreement by contacting media representatives, granting interviews and attempting to assist media representatives in the preparation for publication or broadcast magazine articles, newspaper articles, books, radio and television programs, about or concerning the Church and/or other persons and entities referred to in paragraph 1 of the Agreement. These media representatives included:

- Cable Network News: reporter Don Knapp, in March, 1992 [Sep.St.Nos. 47-48];
- American Lawyer Magazine: reporter Bill Horne, in March, 1992

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[Sep.St.No. 49];

- Los Angeles Times: reporter Bob Welkos, in May, 1992; and reporter Joel Sappell, in June, 1993 [Sep.St.Nos. 50-51];
- CAN Video Interview, with anti-Scientologists "Spanky" Taylor and Jerry Whitfield, in November, 1992 [Sep.St.No. 52];
- KFAX Radio: interview planned but prevented in April, 1993 [Sep.St.No. 53];
- Newsweek Magazine: reporter Charles Fleming, in June, 1993 and August, 1993 [Sep.St.No. 54-56];
- Daily Journal: reporter Mike Tipping, in June, 1993 [Sep.St.No. 57];
- Time Magazine: reporter Richard Behar, in March, 1992 and in June, 1993 [Sep.St.Nos. 58-59];
- San Francisco Recorder: reporter Jennifer Cohen, in August, 1993 [Sep.St.No. 60];
- E! Entertainment Network: reporter Greg Agnew, in August, 1993 [Sep.St.No. 61];
- WORD Radio: Pittsburgh, Pennsylvania, interviewed in the fall of 1993 [Sep.St.No. 62];
- St. Petersburg Times: St. Petersburg, Florida, reporter Wayne Garcia, in the fall of 1993 [Sep.St.No. 63];
- Premiere Magazine: letter to the editor, in October, 1993 [Sep.St.No. 64];
- Mirror-Group Newspapers: United Kingdom, in May, 1994 [Sep.St.No. 65];
- Gauntlet Magazine: New York, New York, reporter Rick Cusick in June, 1994 [Sep.St.No. 66];
- Pacific Sun Newspaper: reporter Rick Sine, in June and July, 1994 [Sep.St.No. 67];

* Disney Cable: reporter Marsha Nix, in August, 1994 [Sep.St.No. 68]; and

* Tom Voltz: Swiss author writing a book about Scientology, in October, 1994 [Sep.St.No. 69].

7. Between 1992 and the present, Armstrong breached paragraph 7(D) of the Agreement by preparing and distributing at least three manuscripts concerning his claimed experiences in and with Scientology, including a treatment for a screenplay which he intends to turn into a film [Sep.St.Nos.70-71].

8. Between 1991 and the present, Armstrong further breached paragraph 7(D) of the Agreement by disclosing his claimed experiences in or with Scientology to each of the following persons or groups, not previously identified: Robert Lobsinger [Sep.St.No. 72]; the New York Times [Sep.St.No. 73]; Toby Plevin, Stuart Culter, Anthony Laing, Kent Burtner, and Margaret Singer [Sep.St.No. 74]; Priscilla Coates [Sep.St.No. 75]; Omar Garrison [Sep.St.No. 76]; Vaughn and Stacy Young [Sep.St.No. 77]; a Stanford University psychology class [Sep.St.No. 78]; attendees at the 1992 Cult Awareness Network Convention [Sep.St.No. 79]; and Hana Whitfield [Sep.St.No. 80].

9. Defendant Armstrong has reiterated numerous times that he intends to continuing breaching the Agreement unless he is ordered by the Court to cease and desist [Sep.St.Nos. 87-97].

10. Plaintiff's legal remedies are inadequate insofar as the scope of the relief ordered below is concerned. Tamarind Lithography Workshop, Inc. v. Sanders (1983) 143 Cal.App.3d 571, 577-578, 193 Cal.Rptr. 409, 413.

Accordingly, the Court finds that entry of a permanent injunction in this action is necessary in this action because pecuniary compensation could not afford the Church adequate relief, and the restraint is necessary in order to prevent a multiplicity of actions for breach of contract. Civil Code § 3422(1),(3). A ORDER of injunction is therefore entered as follows:

Defendant Gerald Armstrong, his agents, employees, and persons acting in concert or conspiracy with him are restrained and enjoined from doing directly or indirectly any of the following:

1. Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim, regarding such claim or regarding pressing, arbitrating, or litigating it, against any of the following persons or entities:

- o The Church of Scientology International, its officers, directors, agents, representatives, employees, volunteers, successors, assigns and legal counsel;
- o The Church of Scientology of California, its officers, directors, agents, representatives, employees, volunteers, successors, assigns and legal counsel;
- o Religious Technology Center, its officers, directors, agents, representatives, employees, volunteers, successors, assigns and legal counsel;
- o The Church of Spiritual Technology, its officers, directors, agents, representatives, employees, volunteers, successors, assigns and legal counsel;
- o All Scientology and Scientology affiliated Churches, organizations and entities, and their officers, directors, agents, representatives, employees, volunteers, successors, assigns and legal counsel;
- o Author Services, Inc., its officers, directors, agents, representatives, employees, volunteers, successors, assigns and legal counsel;
- o The Estate of L. Ron Hubbard, its executor, beneficiaries, heirs, representatives, and legal counsel; and/or
- o Mary Sue Hubbard;

(Hereinafter referred to collectively as "the Beneficiaries");

2. Voluntarily assisting any person (not a governmental organ or entity) defending a claim, intending to defend a claim, intending to defend an arbitration, or intending to defend any claim being pressed, made, arbitrated or litigated by any of the Beneficiaries, regarding such claim or regarding defending, arbitrating, or litigating against it;

3. Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating adversely to any of the Beneficiaries;

4. Facilitating in any manner the creation, publication, broadcast, writing, filming audio recording, video recording, electronic recording or reproduction of any kind of any book, article, film, television program, radio program, treatment, declaration, screenplay or other literary, artistic or documentary work of any kind which discusses, refers to or mentions Scientology, the Church, and/or any of the Beneficiaries;

5. Discussing with anyone, not a member of Armstrong's immediate family or his attorney, Scientology, the Church, and/or any of the Beneficiaries;

In addition, it is ORDERED that, within 20 days of the issuance of this Order, Armstrong shall:

1. Return to the Church any documents which he now has in his possession, custody or control which discuss or concern Scientology, the Church and/or any person or entity referred to in paragraph 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986, other than documents which have been filed in this litigation.

It is further ORDERED that during the pendency of this litigation, documents which have been filed in this litigation may be retained by Armstrong's counsel. Those documents are to remain sealed, in the possession of Mr. Greene or any successor counsel, and may not be distributed to third parties. At the conclusion of the instant litigation, it is ORDERED that all documents from this case in counsel's possession which do not comprise counsel's work product will be delivered to counsel for plaintiff. Counsel's work product may be retained by Armstrong's counsel.

DATED: OCT 17, 1995

Gary W. Thomas
THE HONORABLE GARY W. THOMAS
SUPERIOR COURT JUDGE

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FILED
OCT 26 1995
HOWARD HANSON
MARIN COUNTY CLERK
by J. Steele, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	CASE NO. ~~BC~~ 157680 PLAINTIFF CHURCH OF SCIENTOLOGY INTERNATIONAL'S NOTICE OF MOTION AND MOTION FOR (1) SUMMARY ADJUDICATION OF THE FIRST CAUSE OF ACTION OF ARMSTRONG'S FIRST AMENDED CROSS-COMPLAINT; (2) SEVERANCE; (3) DISMISSAL OF UNADJUDICATED CLAIMS; AND (4) ENTRY OF FINAL JUDGMENT DATE: December 1, 1995 TIME: 9:00 a.m. DEPT: 1 TRIAL DATE: Vacated

PLEASE TAKE NOTICE that on December 1, 1995, at 9:00 a.m., or as soon thereafter as may be heard in Department 1 of the above-entitled Court located at the Hall of Justice, 3501 Civic Center Dr., San Rafael, California 94908-4177, plaintiff Church of Scientology International ("the Church") will move this Court to issue an order:

1. Granting plaintiff/cross-defendant summary adjudication against defendant/cross-complainant on the First Cause of Action for Declaratory Relief contained in Armstrong's First Amended Cross-Complaint from the Breach Case, pursuant to California Code of Civil Procedure Section 437c;

2. Severing the fraudulent conveyance action from the original breach of contract action;

3. Dismissing those of plaintiff's claims not already adjudicated by summary adjudication;

4. Determining that plaintiff is the prevailing party in this action, entitled to recovery of its attorney's fees and costs; and

5. Entering final judgment for plaintiff on the breach of contract action in the amount of $300,000, together with a permanent injunction, attorneys' fees and costs.

This Motion is made on the grounds that:

1. In light of Armstrong's bankruptcy, the Church seeks to resolve rapidly and economically all of those matters presently pending before this Court which can be resolved short of trial;

2. This Court has already determined all of the issues raised in Armstrong's claim for declaratory relief adversely to Armstrong, mandating judgment in the Church's favor on the only cross-claim which has not been dismissed;

3. The fraudulent conveyance claim has been stayed by

the bankruptcy court, while that court has agreed that plaintiff may pursue its breach of contract claims to entry of judgment; and

4. By summary adjudication of seven of its claims, the Church has achieved the primary relief which it sought when it initiated this litigation.

This Motion is based on this Notice of Motion and Motion, this Court's prior Orders granting summary adjudication, the pleadings, records and files herein, the accompanying Memorandum of Points and Authorities, the declarations and exhibits filed herewith, the accompanying Separate Statement of Undisputed Material Facts, and such other evidence as may be adduced properly at the hearing of this Motion.

Dated: October 26, 1995

Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

MOXON & BARTILSON

By: ______________________
Laurie J. Bartilson

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of California, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Boulevard, Suite 2000, Hollywood, CA 90028.

On October 26, 1995 I served the foregoing document described as PLAINTIFF CHURCH OF SCIENTOLOGY INTERNATIONAL'S NOTICE OF MOTION AND MOTION FOR (1) SUMMARY ADJUDICATION OF THE FIRST CAUSE OF ACTION OF ARMSTRONG'S FIRST AMENDED CROSS-COMPLAINT; (2) SEVERANCE; (3) DISMISSAL OF UNADJUDICATED CLAIMS; AND (4) ENTRY OF FINAL JUDGMENT on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] true copies thereof in sealed envelopes addressed, certified mail, as follows:

Ford Greene
HUB Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

MICHAEL WALTON
700 Larkspur Landing Circle
Suite 120
Larkspur, CA 9493

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party

served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on October 26, 1995 at Los Angeles, California.

[ ] **(BY PERSONAL SERVICE) I delivered such -- envelopes by hand to the offices of the addressees.

Executed on October 18, 1995, at San Rafael, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Matt Ward

Print or Type Name

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

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by J. Steele, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	CASE NO. BC 157680 MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR (1) SUMMARY ADJUDICATION OF THE FIRST CAUSE OF ACTION OF ARMSTRONG'S FIRST AMENDED CROSS-COMPLAINT; (2) SEVERANCE; (3) DISMISSAL OF UNADJUDICATED CLAIMS; AND (4) ENTRY OF FINAL JUDGMENT DATE: December 1, 1995 TIME: 9:00 a.m. DEPT: 1 TRIAL DATE: Vacated

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I. PRELIMINARY STATEMENT

In this breach of contract action, this Court has already summarily adjudicated seven of plaintiff Church of Scientology International ("the Church")'s causes of action in the Church's favor, including a cause of action for permanent injunction and $300,000 in liquidated damages. The defendant, Gerald Armstrong, has declared bankruptcy and, while the Church is pursuing its monetary relief through the bankruptcy proceedings and the fraudulent conveyance portion of this action, there seems little point in litigating further breaches of the agreement to additional monetary judgment. Therefore, with this motion, the Church seeks to resolve all of those matters presently pending before this Court which can be resolved short of trial, and to sever the remaining claims, concerning fraudulent conveyance (which are presently stayed by order of the bankruptcy court) for resolution at a later time. The Church seeks entry by this Court of final judgment in plaintiff's favor, together with costs and attorney's fees as provided by the Agreement. Once judgment is entered, matters may then proceed to a conclusion in the bankruptcy court, and a determination can be made by the bankruptcy trustee concerning pursuit of the claims for fraudulent conveyance.

As preliminary steps to the entry of final judgment in favor of plaintiff, plaintiff moves that this Court:

1. Enter an order of summary adjudication in favor of plaintiff/cross-defendant and against defendant/cross-complainant on the First Cause of Action for Declaratory Relief contained in Armstrong's First Amended Cross-

Complaint from the original breach of contract case. This cross-claim is the only remaining claim of Armstrong's, and it seeks declaratory relief as to provisions of the contract which this Court has already enforced against Armstrong;

2. Enter an order severing the fraudulent conveyance action from the breach case. The adjudication of this action as to Armstrong is stayed pending the bankruptcy, and the action at present belongs to the trustee in bankruptcy, who has not relinquished it; and

3. Enter an order dismissing those of plaintiff's claims not already adjudicated by summary adjudication.

Once these matters have been resolved, all of the issues remaining in this case will have been finally adjudicated in plaintiff's favor. The Church requests that the Court enter final judgment for the Church in the form of the Orders granting summary adjudication, including permanent injunction and $300,000 in damages, together with costs and fees as prayed in the Second Amended Complaint. The Church also seeks a specific declaration that it is the prevailing party on the contract, pursuant to Civil Code Section 1717, and thus entitled to recover its attorneys' fees and costs.

II.

STATEMENT OF FACTS

The original complaint in this action for breach of contract ("the Breach case") was filed in Marin County in February, 1992. Thereafter, at Armstrong's request, the case was transferred to Los Angeles. A second action for fraudulent conveyance (hereinafter, "the Fraudulent Conveyance case") was filed in Marin County in July, 1993, after the Church learned during discovery that Armstrong had transferred all of his assets, including real property located in Marin County, shortly before he began to repeatedly breach the settlement agreement which forms the basis of the Breach case ("the Agreement").

In September, 1994, the Breach case was transferred back to Marin County, and the two cases consolidated for trial. At the time of the consolidation, the operative complaint in the Breach case was the Second Amended Complaint, which contained nineteen causes of action for breach of contract, and a twentieth claim for injunctive relief [Request for Judicial Notice, Ex. A]. In the Fraudulent Conveyance case, the operative pleading was the Verified Complaint, containing three causes of action against three defendants [Id., Ex. B].

In the Breach case, the Church was granted summary adjudication of the Fourth and Sixth causes of action on January 27, 1995. [Id., Ex. C] Summary adjudication was also granted as to the Thirteenth, Sixteenth, Seventeenth and Nineteenth Causes of Action on October 17, 1995. [Id., Ex. D] In total, the Church has been awarded $300,000 in liquidated damages. In addition, on October 17, 1995, the Court entered a permanent injunction against Armstrong, granting summary adjudication of the Twentieth Cause of Action. [Id., Ex. E]

In the Fraudulent Conveyance case, Armstrong filed a single count cross-complaint for abuse of process. That claim was summarily adjudicated in the Church's favor on September 9, 1994. [Id., Ex. F]

In the Breach case, defendant Armstrong filed an Amended Cross-complaint alleging three causes of action. [Id., Ex. G] On August 16, 1994, the Los Angeles Superior Court granted the Church summary adjudication of the Second cause of action (for abuse of process) and of the Third cause of action (for breach of contract). [Id., Ex. H]

During the discovery phase of these cases, Armstrong admitted to dozens of individual breaches of the Agreement. In ruling on the motion for summary adjudication of the twentieth cause of action, this Court found that it was undisputed that Armstrong had breached the Agreement more than 48 times [Id., Ex. E, Order of Injunction, ¶¶ 6-8]

On April 18, 1995, Armstrong filed a voluntary petition for bankruptcy, and proceedings in the consolidated cases were automatically stayed. On May 25, 1995, the bankruptcy court granted the Church's petition for relief from stay as to the Breach case, but the Fraudulent Conveyance case remains stayed while the bankruptcy is pending.[1] [Id., Ex. I]

III.

ARGUMENT

A. The Church Is Entitled To Summary Adjudication Of Armstrong's Last Remaining Cross-Claim

When the issues presented by a cross-claim for declaratory relief are fully resolved against the cross-complainant by resolution of claims contained in the complaint, it is proper for the court to enter a judgment against the cross-complainant on the cross-claim. International Association of Firefighters, Local No. 1319, AFL-CIO v. City of Palo Alto (1963) 60 Cal.2d 295, 32 Cal.Rptr. 842, 845-846. Summary judgment is an appropriate procedure to use to resolve a declaratory relief action. Allis-Chalmers Corp. v. City of Oxnard (1981) 126 Cal.App.3d 814, 818 n.3, 179 Cal.Rptr. 159, 161 n.3.

---

[1] Because of the nature of the fraudulent conveyance action, in which the Church claims that assets which Armstrong gave to other defendants should be returned to Armstrong so that the Church may execute on them, the action is now an asset of the bankruptcy estate. The trustee in bankruptcy has not relinquished rights in this cause of action.

In the Firefighters case, the firefighters brought a mandamus proceeding to compel the City of Palo Alto to permit them to unionize pursuant to certain Labor Code provisions. The City brought a cross-complaint for declaratory relief, seeking a determination that the Labor Code provisions were not valid or applicable to Palo Alto. The firefighters prevailed at trial, and the Court then dismissed the cross-complaint. The California Supreme Court held that the trial court correctly refused the requested declaratory relief, because the decision on the complaint constituted "a declaration of the rights and duties of [the City] as they relate to the present controversy," the precise relief sought in the declaratory relief action. Id., 32 Cal.Rptr. at 846. However, the Supreme Court also held that, rather than simply dismissing the cross-claim, the trial court "'should have entered its judgment decreeing expressly (as is implied by the judgment of dismissal)' that the party asking for the declaration is not entitled to that remedy." Id., quoting Essick v. City of Los Angeles (1950) 34 Cal.2d 614, 624, 213 P.2d 492, 499.

Here, the relief which Armstrong seeks is

> [A] judicial determination of his rights and duties, and a declaration that the only provisions of the settlement agreement which are valid are those which directly pertain to the dismissal of his cross-complaint in Armstrong I in consideration for the payment of a sum of money, and that paragraphs 4A, 4B, 7D, 7G, 7H, 7I, 10, 18D, 18E of the settlement agreement should be severed and held not to be legally enforceable because they were designed to suppress evidence and obstruct justice.

[Ex. G to Request for Judicial Notice, Verified Amended Cross-Complaint, p.29, ¶ 61]

This Court has already judicially determined all of these issues against Armstrong. The orders of this Court granting summary judgment, including the Order of Permanent Injunction, are orders enforcing paragraphs 7D, 7E, 7G, 7H, 7I, 10, 18D, and 18E of the Agreement, and declaring the rights and obligations of Armstrong pursuant to the Agreement.[2] [Sep.St. No. 2] Under these circumstances, the Church is entitled to summary judgment of Armstrong's cross-claim for declaratory relief, declaring that Armstrong is not entitled to any of the relief which he requested.

B. In The Interests Of Justice, This Court Should Sever The Fraudulent Conveyance Case From The Breach Case

Code of Civil Procedure Section 1048(b) provides in part:

> The court, in furtherance of convenience and to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any cause of action,. . . or of any separate issue or of any number of causes of action or issues.

Cases are severed to promote the accuracy, fairness, and efficiency of adjudication. See, e.g., Foreman & Clark v. Fallon (1971) 3 Cal.App.3d 875, 888, n. 8, 92 Cal.Rptr. 162, 171 n. 8.; Bedolla v. Logan & Frazer (1975) 52 Cal.App.3d 118, 135, 125 Cal.Rptr. 59, 72. "Although there are many circumstances in which severance is advisable, it is especially useful when the resolution of a particular claim or issue might dispose of the entire case or eliminate a party." California Civil Proc. Before Trial, CEB 3d Ed. 1995, Vol. 3, § 63.2. Moreover, severance is available as a remedy regardless of whether claims were brought together in a prior consolidation, Id., §63.1, and "can be used to minimize the delay or disruption of a multiparty action by automatic stay of prosecution of claims against a bankrupt. . . ." Id., §63.22.

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[2] Paragraphs 4A and 4B of the Agreement concern an appeal which has already become final, rendering this request moot. [Sep.St.No. 3]

Here, severance of the Fraudulent Conveyance Case is desirable because it, and it alone, has been stayed by the bankruptcy court. Plaintiff is unable at this time to pursue its claims against Armstrong in that action and, given the nature of the action, it is fruitless for plaintiff to proceed against the other defendants without Armstrong's participation.

As described in Part C, infra, the Church is willing to dismiss the those claims for breach of contract which have not already been summarily adjudicated if the Breach and Fraudulent Conveyance actions are severed. This means that the entire Breach Case will have been resolved, without the need or expense of a trial, and judgment can be entered, based on all of the summary adjudication orders which have been entered thus far. Severance is highly desirable if it is likely to result in disposition of an action short of trial. See,e.g., Bedolla v.

Logan & Frazer, supra.

Thus, if the Fraudulent Conveyance case is severed for separate determination, the delay and disruption caused by Armstrong's bankruptcy filing will be minimized. The Breach Case, can and should proceed to immediate final adjudication. This is highly desirable not just to resolve this long-pending action, but also because once liability has been finally determined by this Court, the bankruptcy court can proceed with its determination of whether or not Armstrong can discharge all or part of that liability in bankruptcy.

This interim resolution will, in turn, result in a determination of whether or not the Fraudulent Conveyance case can even proceed to trial and, if so, whether it will be pursued by the plaintiff or by the trustee in bankruptcy. The uncertainties connected with this action can be resolved sequentially without affecting the immediate finality of the orders already entered by the Court in the Breach Case.

In addition, the plaintiff will have entered in its favor a final judgment of permanent injunction, which can protect it from future breaches. Armstrong has managed to delay entry of such a judgment for more than 3 1/2 years, and his bankruptcy should not be permitted to delay that resolution any further. Judicial fairness and economy thus dictate that the two actions should be severed at this time.

C. If A Final Judgment Can Be Entered At This Time, The Church Is Willing To Dismiss Those Causes Of Action In The Breach Case Which Have Not Been Summarily Adjudicated

As noted above, this Court has granted the Church summary adjudication of seven causes of action in the Breach Case, including $300,000 in liquidated damages, and summary adjudication of the twentieth cause of action, which incorporated each of the preceding claims by reference, but sought only the remedy of permanent injunction, fees and costs. Given Armstrong's present claim that he is destitute, and the uncertainties concerning recovery in the bankruptcy action or the Fraudulent Conveyance Case, the Church would understandably prefer not to undertake the expense of proceeding by summary adjudication motion or trial on each remaining individual breach claim at this time. Accordingly, the Church requests that these claims be dismissed without prejudice,[3] C.C.P. § 581(c), and that final judgment be entered on the fourth, sixth, thirteenth, sixteenth, seventeenth, nineteenth, and twentieth causes of action in the Church's favor in accordance with the orders of summary adjudication which are submitted herewith as Exhibits C, D and E to the Church's Request for Judicial Notice.

D. The Church Should Be Awarded Its Fees And Costs As The Prevailing Party In This Action

Paragraph 20 of the Agreement provides in relevant part:

> In the event any party to this Agreement institutes any action to preserve, to protect or to enforce any right or benefit created hereunder, the prevailing party in any such action shall be entitled to the costs of suit and reasonable attorney's fees.

In general, "a plaintiff will be considered a prevailing party when the lawsuit yields the primary relief sought in the case." California Common Cause v. Duffy (1987) 200 Cal.App.3d

---

[3] The causes of action which have not been summarily adjudicated, and which would be subject to the order of dismissal, are the first, second, third, fifth, seventh, eighth, ninth, tenth, eleventh, twelfth, fourteenth, fifteenth, and eighteenth causes of action.

730, 741, 246 Cal.Rptr. 285. Moreover,

> "[W]here claims and counterclaims arise in connection with a contract containing an attorney's fees provision, the party who obtains a favorable judgment is deemed to be the prevailing party, even though he did not successfully obtain all the relief which he sought in the action."

Krueger v. Bank of America National Trust and Savings Association (1983) 145 Cal.App.3d 204, 217, 193 Cal.Rptr. 322, 330, quoting, Epstein v. Frank (1981) 125 Cal.App.3d 111, 124, 177 Cal.Rptr. 831.

There can be no doubt that plaintiff is the prevailing party in this action. The Church brought the Breach Case, in 1992, to enforce its rights under the Agreement, and to stop defendant Armstrong from continuing to breach the Agreement in the future. Armstrong defended the action by arguing that the Agreement was unenforceable, and that he should be permitted by the Court to freely breach the Agreement. In addition, he brought several cross-claims. In separate orders, the Court dismissed all of Armstrong's cross-claims,[4] found against him on his defenses, and enforced the Agreement. Armstrong has been ordered to pay the Church $300,000 in liquidated damages, and he has been permanently enjoined in a manner which enforces the Agreement and prohibits future breaches -- precisely the relief that plaintiff requested.

Under these circumstances, the Church is entitled to a declaration that it is the prevailing party in this action, and an award of its fees and costs pursuant to paragraph 20 of the

---

[4] Except for his claim for declaratory relief, concerning which plaintiff now seeks summary adjudication, see Part III. A, supra.

Agreement.

IV.

CONCLUSION

In order to proceed expeditiously to the final resolution of this litigation, and in light of defendant Armstrong's petition in bankruptcy, the plaintiff, Church of Scientology International, requests that this Court enter final judgment in its favor, by (1) granting the motion for summary adjudication of Armstrong's last remaining cross-claim; (2) severing the fraudulent conveyance action from the breach case; (3) dismissing those of plaintiff's claims which have not yet been adjudicated; and (4) entering final judgment against Armstrong pursuant to plaintiff's motions for summary adjudication already granted, in the amount of $300,000 and a permanent injunction, together with attorneys' fees and costs.

Dated: October 25, 1995 Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN AND CAMPILONGO

MOXON & BARTILSON

By: ______________________
Laurie J. Bartilson

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of California, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Boulevard, Suite 2000, Hollywood, CA 90028.

On October 26, 1995 I served the foregoing document described as MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR (1) SUMMARY ADJUDICATION OF THE FIRST CAUSE OF ACTION OF ARMSTRONG'S FIRST AMENDED CROSS-COMPLAINT; (2) SEVERANCE; (3) DISMISSAL OF UNADJUDICATED CLAIMS; AND (4) ENTRY OF FINAL JUDGMENT on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] true copies thereof in sealed envelopes addressed, certified mail, as follows:

Ford Greene
HUB Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

MICHAEL WALTON
700 Larkspur Landing Circle
Suite 120
Larkspur, CA 9493

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party

served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on October 26, 1995 at Los Angeles, California.

[ ] **(BY PERSONAL SERVICE) I delivered such -- envelopes by hand to the offices of the addressees.

Executed on October 18, 1995, at San Rafael, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Matt Ward
Print or Type Name

Matt Ward
Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

8715

FILED

OCT 26 1995

HOWARD HANSON
MARIN COUNTY CLERK
by J. Steele, Deputy

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Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	CASE NO. BC 157680 SEPARATE STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY ADJUDICATION OF THE FIRST CAUSE OF ACTION OF ARMSTRONG'S FIRST AMENDED CROSS-COMPLAINT DATE: December 1, 1995 TIME: 9:00 a.m. DEPT: 1 TRIAL DATE: Vacated

Church of Scientology International ("the Church") submits this statement of undisputed material facts in support of the Church's Motion for Summary Adjudication of the first cause of action of defendant Armstrong's Verified Amended Cross-complaint.

ISSUE: **The Church is entitled to summary adjudication of the First Cause of Action because all of the issues presented by this request for declaratory relief have already been resolved against Armstrong and in the Church's favor.**

UNDISPUTED FACT	EVIDENTIARY SUPPORT
1. In the First Cause of Action, Armstrong seeks the following relief: [A] judicial determination of his rights and duties, and a declaration that the only provisions of the settlement agreement which are valid are those which directly pertain to the dismissal of his cross-complaint in Armstrong I in consideration for the payment of a sum of money, and that paragraphs 4A, 4B, 7D, 7G, 7H, 7I, 10, 18D, 18E of the settlement agreement should be severed and held not to be legally enforceable because they were designed to suppress evidence and	1. Request for Judicial Notice, Exhibit G, Verified Amended Cross-complaint (hereinafter "Cross-complaint"), p. 29, ¶ 61.

obstruct justice.	
2. The orders of this Court granting summary judgment, including the Order of Permanent Injunction, are orders enforcing paragraphs 7D, 7E, 7G, 7H, 7I, 10, 18D and 18E of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.	2. Exhibit A to Exhibit A to Request for Judicial Notice, Verified Second Amended Complaint, Mutual Release of all Claims and Settlement Agreement, ¶¶ 7D, 7E, 7G, 7H, 7I, 10, 18D, and 18E; Request for Judicial Notice, Exhibit C, Order Granting Summary Adjudication of the Fourth and Sixth Causes of Action; Request for Judicial Notice, Exhibit D, Order Granting Summary Judgment of the Thirteenth, Sixteenth, Seventeenth, and Nineteenth Causes of Action; Request for Judicial Notice, Exhibit E, Order of Permanent Injunction.
3. Paragraphs 4A and 4B concern an appeal which has already become final, and as to which no rights, duties or obligations could be enforced	3. Exhibit A to Exhibit A to Request for Judicial Notice, Verified Second Amended Complaint, Mutual Release of all Claims and Settlement

in the future.	Agreement, ¶¶ 4A and 4B; Request for Judicial Notice, Exhibit J, Portions of the Opinion of the Court of Appeal, Second Appellate District, in the case of Church of Scientology of California v. Armstrong, Case No. B069450.

Dated: October 26, 1995

Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

MOXON & BARTILSON

By: ______________________
Laurie J. Bartilson
Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of California, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Boulevard, Suite 2000, Hollywood, CA 90028.

On October 26, 1995 I served the foregoing document described as SEPARATE STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF PLAINTIFF'S MOTION FOR (1) SUMMARY ADJUDICATION OF THE FIRST CAUSE OF ACTION OF ARMSTRONG'S FIRST AMENDED CROSS-COMPLAINT; (2) SEVERANCE; (3) DISMISSAL OF UNADJUDICATED CLAIMS; AND (4) ENTRY OF FINAL JUDGMENT on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] true copies thereof in sealed envelopes addressed, certified mail, as follows:

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San Anselmo, CA 94960-1949

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served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on October 26, 1995 at Los Angeles, California.

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[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Matt Ward	
Print or Type Name	Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

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Andrew H. Wilson, SBN 063209
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Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

FILED
OCT 26 1995
HOWARD HANSON
MARIN COUNTY CLERK
by J. Steele, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	CASE NO. BC 157680 REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR (1) SUMMARY ADJUDICATION OF THE FIRST CAUSE OF ACTION OF ARMSTRONG'S FIRST AMENDED CROSS-COMPLAINT; (2) SEVERANCE; (3) DISMISSAL OF UNADJUDICATED CLAIMS; AND (4) ENTRY OF FINAL JUDGMENT DATE: December 1, 1995 TIME: 9:00 a.m. DEPT: 1 TRIAL DATE: Vacated

Plaintiff, Church of Scientology International requests that this Court take judicial notice of the following records of the Superior Court of the County of Marin of the State of California, the Superior Court of the County of Los Angeles of the State of California the Court of Appeal of the State of California Second

Appellate District, and the United Stated Bankruptcy Court for the Northern District of California pursuant to Evidence Code Sections 452 and 453:

A. Second Amended Verified Complaint for Damages and for Preliminary and Permanent Injunctive Relief for Breach of Contract, filed on April 5, 1994 in the case of Church of Scientology International v. Gerald Armstrong, et al., Los Angeles Superior Court, Case No. BC 052395, a true and correct copy of which is attached hereto as Exhibit A;

B. Verified Complaint To Set Aside Fraudulent Transfers And For Damages; Conspiracy, filed on July 23, 1993, in the case of Church of Scientology International v. Gerald Armstrong, et al., Marin Superior Court, Case No. 157680, a true and correct copy of which is attached hereto as Exhibit B;

C. Ruling of January 27, 1995 by the Honorable Gary W. Thomas re Motion for Summary Adjudication of Issues as to the Fourth and Sixth Causes of Action in Church of Scientology International v. Gerald Armstrong, et al., Marin County Superior Court, Case No. 157680 (Consolidated), a true and correct coy of which is attached hereto as Exhibit C;

D. Order of Summary Judgment as to the Thirteenth, Sixteenth, Seventeenth, and Nineteenth Causes of Action, filed on October 17, 1995, in Church of Scientology International v. Gerald Armstrong, et al., Marin County Superior Court, Case No. 157680 (Consolidated), a true and correct copy of which is attached hereto as Exhibit D;

E. Order of Permanent Injunction, filed on October 17, 1995, in Church of Scientology International v. Gerald Armstrong, et al., Marin County Superior Court, Case No. 157680 (Consolidated), a true and correct coy of which is attached hereto as Exhibit E;

F. Notice of Ruling of September 9, 1994 by the Honorable Gary W. Thomas granting the Church summary adjudication of the cross-complaint in Church of Scientology International v. Gerald Armstrong, et al., Marin County Superior Court, Case No. 157680, a true and correct coy of which is attached hereto as Exhibit F;

G. Verified Amended Cross-complaint filed by Armstrong on October 7, 1992 in the case of Church of Scientology International v. Gerald Armstrong, et al., Los Angeles Superior Court, Case No. BC 052395, a true and correct copy of which is attached hereto as Exhibit G;

H. Minute Order of August 16, 1994, re: Motion by Cross-Defendant, Church of Scientology International, for Summary Adjudication of the Second and Third Causes of Action of the Cross-Complaint, entered by the Honorable David A. Horowitz, Superior Court Judge, in the case of Church of Scientology International v. Gerald Armstrong, et al., Los Angeles Superior Court, Case No. BC 052395, a true and correct copy of which is attached hereto as Exhibit H;

I. Memorandum of Decision granting relief from stay, in the case of In re Gerald Armstrong, United States Bankruptcy Court for the Northern District of California, Case No. 95-10911, a true and correct copy of which is attached hereto as Exhibit I.

J. Opinion of the Court of Appeal of the State of

California Second Appellate District Division Four on May 16, 1994, entered in the case of Church of Scientology of California v. Gerald Armstrong, Case No. B069450, a true and correct copy of the first and last pages of which are attached hereto as Exhibit J.

Dated: October 26, 1995

Respectfully Submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

MOXON & BARTILSON

By: ______________________
Laurie J. Bartilson

Attorneys for Plaintiff
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ORIGINAL FILED
APR 05 1994
LOS ANGELES
SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation;

Plaintiff,

vs.

GERALD ARMSTRONG; THE GERALD ARMSTRONG CORPORATION, a California corporation; DOES 1-25 INCLUSIVE

Defendants.

CASE NO. BC 052395

VERIFIED SECOND AMENDED COMPLAINT FOR DAMAGES AND FOR PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF FOR BREACH OF CONTRACT

Plaintiff, by its attorneys, Wilson, Ryan & Campilongo and Bowles & Moxon, for its Complaint, alleges:

NATURE OF THE ACTION

1. In violation of the express terms and spirit of a settlement agreement ("the Agreement") entered into in December, 1986, defendant Gerald Armstrong ("Armstrong") has embarked on a deliberate campaign designed to aid plaintiff's litigation adversaries, breach the confidentiality provisions of the

Agreement, and foment litigation, hatred and ill-will toward plaintiff.

2. More than seven years ago, plaintiff Church of Scientology International ("CSI") entered into the Agreement with Armstrong, on its own behalf and for the benefit of numerous third-party beneficiaries. The Agreement provided for a mutual release and waiver of all claims arising out of a cross-complaint which defendant Armstrong had filed in the case of Church of Scientology of California v. Gerald Armstrong, Los Angeles Superior Court No. C 420153. Armstrong, a former Church member who sought, by both litigation and covert means, to disrupt the activities of his former faith, displayed through the years an intense and abiding hatred for the Church, and an eagerness to annoy and harass his former co-religionists by spreading enmity and hatred among members and former members. Plaintiff sought with the Agreement to end all of Armstrong's covert activities against it, along with the litigation itself. For that reason, the Agreement contained carefully negotiated and agreed-upon confidentiality provisions and provisions prohibiting Armstrong from fomenting litigation against plaintiff by third parties. These provisions were bargained for by plaintiff to put an end to the enmity and strife generated by Mr. Armstrong once and for all.

3. This action arises out of deliberate and repeated breaches by Armstrong of these and other express provisions of the Agreement. Although plaintiff fully performed all of its obligations under the Agreement, Armstrong never intended to keep his part of the bargain and maintains that he considered the

referenced provisions to be unenforceable ab initio. As soon as he finished spending the money he extracted from plaintiff as the price of his signature, Armstrong began a systematic campaign to foment litigation against plaintiff by providing confidential information, copies of the Agreement, declarations, and "paralegal" assistance to litigants actively engaged in litigation against his former adversaries. Although plaintiff has repeatedly demanded that Armstrong end his constant and repeated breach of the provisions of the Agreement, Armstrong appears to delight in renewing his annoying and harassing activities, admitting to them in sworn declarations, and refusing to end his improper liaisons.

4. With this Complaint, plaintiff seeks the Court's aid in obtaining the peace for which it bargained more than seven years ago. Plaintiff requests liquidated damages pursuant to the terms of the Agreement from Armstrong and his sham corporate alter ego, the Gerald Armstrong Corporation ("GAC"), as well as injunctive relief to prevent additional and future breaches of the Agreement by Armstrong.

THE PARTIES

5. Plaintiff Church of Scientology International is a non-profit religious corporation incorporated under the laws of the State of California, having its principal offices in Los Angeles, California. Plaintiff CSI is the Mother Church of the Scientology religion.

6. Defendant Gerald Armstrong is a resident of Marin County, California.

7. Defendant Gerald Armstrong Corporation is a corporation

incorporated under the laws of the State of California, having its principal offices in San Anselmo, California.

8. Defendant Armstrong is the principal shareholder in GAC and its sole employee, and has been since the incorporation of GAC in 1987.

9. Defendant GAC is, and at all times since its incorporation was, the alter ego of defendant Armstrong and there exists, and at all times since GAC's incorporation has existed, a unity of interest and ownership between these two defendants such that any separateness between them has ceased to exist, in that defendant Armstrong caused his own personal assets to be transferred to GAC without adequate consideration, in order to evade payment of his lawful obligations, and defendant Armstrong has completely controlled, dominated, managed and operated GAC since its incorporation for his own personal benefit.

10. Defendant GAC is, and at all times herein mentioned was, a mere shell, instrumentality and conduit through which defendant Armstrong carried on his activities in the corporate name exactly as he conducted it previous to GAC's incorporation, exercising such complete control and dominance of such activities to such an extent that any individuality or separateness of defendant GAC and defendant Armstrong does not, and at all relevant times mentioned herein, did not exist.

11. Adherence to the fiction of the separate existence of defendant GAC as an entity distinct from defendant Armstrong would permit an abuse of the corporate privilege and would sanction fraud, in that Armstrong transferred his material assets to GAC in 1988, prior to embarking on the campaign of harassment

described herein, and with the intention of preventing plaintiff from obtaining monetary relief from Armstrong pursuant to the liquidated damages clause. GAC exists solely so that Armstrong may be "judgment proof."

THE CONTRACT

12. On or about December 6, 1986, CSI and Armstrong entered into a written confidential settlement Agreement, a true and correct copy of which is attached hereto as Exhibit A, and incorporated herein by reference.

13. The Agreement was entered into by plaintiff and defendant Armstrong, with the participation of their respective counsel after full negotiation. Each provision of the Agreement was carefully framed by the parties and their counsel to accurately reflect the agreement of the parties.

14. Plaintiff specifically negotiated for and obtained from Armstrong the provisions in the Agreement delineated in paragraphs 7(D), 7(H), 7(G), 10 and paragraphs 12 through 18, because it was well aware, through investigation, that Armstrong had undertaken a series of covert activities, apart from the litigation, which were intended by Armstrong to discredit Church leaders, spark government raids into the Churches, create phony "evidence" of wrongdoing against the Churches, and, ultimately, destroy the Churches and their leadership.

15. Contemporaneously with the signing of the Agreement, Armstrong represented that he understood the Agreement's provisions and was acting of his own free will and not under duress.

16. The Agreement also provided that plaintiff CSI would

pay to Armstrong's attorney, Michael Flynn, a lump sum amount intended to settle not just Armstrong's case, but the cases of other clients of Mr. Flynn as well, and that Mr. Flynn would pay to Armstrong a portion of that settlement amount. The exact amount of the portion to be paid to Armstrong by Mr. Flynn was maintained as confidential between Mr. Flynn and Armstrong.

17. CSI paid to Mr. Flynn the lump sum settlement amount.

18. Mr. Flynn paid to Armstrong his confidential portion of the lump sum settlement amount, which was at least $520,000, after expenses.

19. The consideration paid to Armstrong was fair, reasonable and adequate. Plaintiff CSI has performed all of its obligations pursuant to the Agreement.

FIRST CAUSE OF ACTION

(Against Armstrong for Breach of Contract)

20. Plaintiff realleges paragraphs 1-19, inclusive, and incorporates them herein by reference.

21. Vicki and Richard Aznaran ("the Aznarans") are former Scientology parishioners currently engaged in litigation against, inter alia, RTC and CSI, in the case of Vicki J. Aznaran, et al. v. Church of Scientology of California, et al., United States District Court for the Central District of California, Case No. CV 88-1786 JMI (Ex).

22. In June, 1991, the Aznarans discharged their attorney, Ford Greene, and retained attorney Joseph A. Yanny to represent them.

23. While acting as the Aznarans' counsel, Yanny hired Gerald Armstrong as a paralegal to help Yanny on the Aznaran

case.

24. In July, 1991, Armstrong agreed to travel from Marin County to Los Angeles and asked Yanny to pay him $500 for his proposed help.

25. In July, 1991, Armstrong did travel to Los Angeles as he had agreed, stayed with Yanny on July 15 and July 16, 1991, and provided Yanny with paralegal assistance and a declaration for the Aznaran case.

26. Yanny is former counsel to CSI, and his substitution into the case was vacated by the Court sua sponte on July 24, 1991, the Court noting that Yanny's retention as the Aznarans' counsel was "highly prejudicial" to CSI.

27. Armstrong's acceptance of employment by Yanny to work on the Aznarans' litigation is a direct violation of Paragraphs 7(G) and 10 of the Agreement.

28. As a direct and proximate result of Armstrong's breach of the agreement by providing paralegal assistance to Yanny in the Aznarans' litigation, plaintiff has incurred damages which are not presently calculable. In no event, however, are they less than the jurisdictional minimum of this Court. Consequently, for this breach plaintiff seeks compensatory and consequential damages according to proof.

SECOND CAUSE OF ACTION

(Against Armstrong for Breach of Contract)

29. Plaintiff realleges paragraphs 1-19, 21-28, inclusive, and incorporates them herein by reference.

30. After Yanny entered his appearance in the Aznarans' case and indicated to CSI's counsel that he represented Gerald

Armstrong as well, CSI brought suit against Yanny in the case of Religious Technology Center, et al. v. Joseph A. Yanny, et al., Los Angeles Superior Court No. BC 033035 ("RTC v. Yanny"). In that action, plaintiff sought and obtained a Temporary Restraining Order and a Preliminary Injunction against Yanny, which prohibit Yanny from aiding, advising, or representing, directly or indirectly, the Aznarans or Armstrong, on any matters relating to the plaintiff.

31. At the hearings before the Court on the temporary restraining order and the injunction, Yanny filed two declarations prepared and executed by Armstrong on July 16, 1991. The declarations were offered by Yanny as part of Yanny's defense, which was ultimately rejected by the Court when it issued its injunction.

32. Armstrong's aid to Yanny in the RTC v. Yanny case is a direct violation of Paragraphs 7(G) and 10 of the Agreement.

33. Armstrong attached as an exhibit to one of his July 16, 1991 declarations a copy of the Agreement, the terms of which he had agreed, pursuant to paragraph 18(D), to keep confidential. This disclosure of the terms of the Agreement is a violation of its non-disclosure provisions, requiring that Armstrong pay to CSI $50,000 in liquidated damages.

34. Despite demand by plaintiff, Armstrong has failed and refused to pay them the $50,000 owed in liquidated damages for this breach of the Agreement.

THIRD CAUSE OF ACTION

(Against All Defendants for Breach of Contract)

35. Plaintiff realleges paragraphs 1-19, 21-28 and 30-34,

inclusive, and incorporates them herein by reference.

36. After Yanny's substitution into the Aznarans' case was summarily vacated, Ford Greene was reinstated as Aznarans' counsel of record. Ford Greene's law offices are located in San Anselmo, California.

37. On or about August, 1991, Armstrong began working in Ford Greene's office as a paralegal on the Aznarans' case. When, thereafter, the Aznarans hired attorney John Elstead to represent them as well, Armstrong provided paralegal services to Elstead as well as Greene. Armstrong's employment in Greene's office has continued to the present. Armstrong's activities constitute a daily and continuing breach of his contract, rendering plaintiff's bargain a nullity.

38. Plaintiff CSI has already incurred, and continues to incur, damages as a direct and proximate result of Armstrong's provision of aid to Greene in the Aznarans' case. Those damages are not presently calculable and will cease only when Armstrong is ordered to stop his improper conduct. In no event, however, are they less than the jurisdictional minimum of this Court. Consequently, for this breach plaintiff seeks compensatory and consequential damages according to proof.

FOURTH CAUSE OF ACTION Granted

(Against All Defendants for Breach of Contract)

39. Plaintiff realleges paragraphs 1-19, 21-28, 30-34 and 36-38, inclusive, and incorporates them herein by reference.

40. In addition to the paralegal services which Armstrong has provided to Ford Greene and John Elstead on the Aznarans' litigation, Armstrong also provided the Aznarans with a

declaration, dated August 26, 1991, and filed in the Aznarans' case. In that declaration, Armstrong describes some of his alleged experiences with and concerning plaintiff, and purports to authenticate copies of certain documents. These actions and disclosures are violations of paragraphs 7(G), 7(H) and 10 of the Agreement, requiring that Armstrong pay to CSI $50,000 in liquidated damages.

41. Despite demand by plaintiff, Armstrong has failed and refused to comply with the liquidated damages provision by paying $50,000 to plaintiff as demanded for this breach of the Agreement.

FIFTH CAUSE OF ACTION

(For Breach of Contract Against Armstrong)

42. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38 and 40-41, inclusive, and incorporates them hereby reference.

43. On or about March 19, 1992, Armstrong, acting through Ford Greene as his agent, transmitted a press release to various members of the media, including the Cable News Network, San Francisco Chronicle, San Francisco Examiner, and the Marin County Independent Journal. A true and correct copy of the press release is attached hereto as Exhibit B. Said press release violated the Agreement in that it constituted disclosures by Armstrong, through Ford Greene as his agent, of his experiences with Scientology as prohibited by paragraph 2. The following are the excerpts from the press release which violate paragraph 2:

> a) "Can the Scientology organization purchase the free speech rights of Gerald Armstrong-the former in-house biographer researcher/archivist of cult leader, L. Ron Hubbard..."

b) "A former high-ranking Scientologist for 12 years, Armstrong split with the group when it insisted he continue lying about the accomplishments Hubbard claimed to the public at large."

c) "For years Scientology has treated Armstrong as a 'suppressive person' who was 'fair game.'"

d) "Armstrong is resisting Scientology's high-powered attack in an effort to affirm his right to free speech to maintain vigilance for the truth."

e) "(Scientology is) fabricating false scenarios in other court proceedings that Armstrong was an agent of the IRS out to destroy it."

44. In addition, the press release devotes an entire paragraph to a description of the lawsuit resulting from the Settlement Agreement and to a description of the Settlement Agreement itself:

> "After Armstrong beat Scientology's lawsuit against him in 1984, he was poised to prosecute his own claims. For millions of dollars, however, in 1986 Scientology settled with he and over 17 other Scientology knowledgeable individuals on the condition that those persons would forever keep silent, avoid giving sworn testimony by evading subpoenas, and never aid or assist anyone adverse to Scientology."

The distribution of the press release violated the provisions of paragraphs 7(D) and 18 of the Agreement.

45. By reason of the foregoing breach by Armstrong, plaintiff is entitled to $50,000 in liquidated damages and compensatory damages not presently known but believed to be in excess of the jurisdictional minimum of this Court.

SIXTH CAUSE OF ACTION Granted

(For Breach of Contract by Armstrong)

46. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41 and 43-45, inclusive, and incorporates them hereby by reference.

47. On or about March 19 and 20, 1992, Armstrong and Greene, acting as Armstrong's agent, granted the media additional interviews, which also violated paragraph 2 of the Agreement. During the course of his interview with the Cable News Network, for example, Armstrong stated, "I'm an expert in the misrepresentations Hubbard has made about himself from the beginning of Dianetics until the day he died." Attached hereto and incorporated herein by reference as Exhibit C is a true and correct transcription of the CNN broadcast which featured this statement made voluntarily by Armstrong in a media interview.

48. By reason of the foregoing breach of the Agreement, plaintiff is entitled to $50,000 in liquidated damages.

SEVENTH CAUSE OF ACTION

(Against Armstrong for Breach of Contract)

49. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45 and 47-48, inclusive and incorporates them herein by reference.

50. On or about February, 1992, Armstrong agreed to appear voluntarily as an "expert witness" in litigation known as Hunziker v. Applied Materials, No. 692629 S.C.S.C (the "Hunziker case"). The alleged subject of his "expertise" was Scientology. The defendants named in the Hunziker case include, *inter alia*, World Institute of Scientology Enterprises, Inc., which is a Scientology affiliated entity protected by the Agreement.

51. On or about February 21, 1992 and February 23, 1992, Armstrong met voluntarily with James Rummond and John Elstead, attorneys for the plaintiffs in the Hunziker case. During his meetings with these attorneys, Armstrong discussed his alleged

history and experiences with plaintiff and with other Scientology entities and individuals protected by the Agreement, and offered to appear for the plaintiffs as an "expert" on the subject of Scientology practices and beliefs.

52. On March 3, 1992, Armstrong voluntarily, and without the issuance of a subpoena by anyone, appeared for deposition in the Hunziker case and accepted a fee for his testimony from the defendants in that case of $1,000. During the course of the deposition, which lasted for approximately four hours, Armstrong testified at length concerning his alleged experiences with and concerning plaintiff and other Scientology affiliated entities and individuals protected by the Agreement, and concerning knowledge and information which he claimed to have concerning plaintiff and other Scientology affiliated entities and individuals.

53. During his deposition on March 3, 1992, Armstrong produced documents which he claimed to have reviewed in preparation for his testimony, in violation of paragraph 7(D) of the Agreement.

54. On or about March 12, 1992, Armstrong again appeared for deposition in the Hunziker case. This time, Armstrong claimed that he had been given a deposition subpoena not by the deposing attorney, but by attorney Elstead, and that Elstead had "filled out" the subpoena earlier that morning. Armstrong refused to produce a copy of the alleged subpoena, which had not been served on any of the parties to the case. In fact, Armstrong himself requested that Elstead issue him a subpoena on Sunday, March 8, 1992, after a temporary restraining order was

issued in this case. On March 8, 1992, Armstrong delivered additional documents to Elstead, again in violation of paragraph 7(D) of the Agreement.

55. Plaintiff learned in April, 1992, through review of the aforesaid deposition transcript, that since the signing of the Agreement, Armstrong had "taken it upon [him]self" to reacquire documents which he had previously returned to plaintiff "from whatever source." He produced many of those documents voluntarily, first to Elstead on March 8, 1992, and then to opposing counsel during the March 12, 1992 deposition.

56. These actions and disclosures are violations of Paragraphs 7(D), 7(G), 7(H) and 10 of the Agreement, requiring that Armstrong pay to CSI $250,000 in liquidated damages.

EIGHTH CAUSE OF ACTION

(Against Armstrong for Breach of Contract)

57. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, inclusive, and incorporates them herein by reference.

58. On or about April 7, 1992, while testifying in the matter known as Church of Scientology v. Yanny, (No. BC 033035), Armstrong made the Settlement Agreement sued upon herein an exhibit to the deposition transcript. Said action was a breach of paragraph 18(D) of the Agreement which prohibits disclosure of the contents of the Agreement.

59. By reason of the foregoing breach of the Agreement, Plaintiff is entitled to $50,000 in liquidated damages, together with compensatory damages in an amount not presently known to plaintiff but believed to be in excess of the jurisdictional

minimum of this court.

NINTH CAUSE OF ACTION

(Against Armstrong for Beach of Contract)

60. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56 and 58-59, inclusive, and incorporates them herein by reference.

61. In breach of the provision of paragraph 7(E) of the Agreement, Armstrong failed to return a letter written by L. Ron Hubbard to the Federal Bureau of Investigation in 1955 and an internal communication known as "Technical Bulletin."

62. In breach of the provisions of paragraph 7(H) of the Agreement, Armstrong gave a declaration in the Aznaran litigation on August 26, 1991 in opposition to a motion to exclude expert testimony.

63. Said declaration attached as exhibits the two documents referred to in paragraph 61 above, in breach of the provisions of Paragraph 7(D) of the Agreement.

64. By reason of the breaches by Armstrong in paragraphs 7(E) and 7(H) of the Agreement, plaintiff has been damaged in an amount not presently known but believed to be in excess of the jurisdictional minimum of this Court.

65. By reason of the breach by Armstrong of paragraph 7(D) of the Agreement, plaintiff is entitled to liquidated damages in the amount of $50,000.

TENTH CAUSE OF ACTION

(Against Armstrong for Breach of Contract)

66. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59 and 61-65, inclusive, and

incorporates them herein by reference.

67. Plaintiff learned in March, 1992, that during 1990 and 1991, Armstrong voluntarily provided aid and advice to Bent Corydon and to Corydon's attorney, Toby Plevin, in the conduct of litigation against plaintiff and affiliated entities in the case of Bent Corydon v. Church of Scientology International, et al., Los Angeles Superior Court Case No. C 694401.

68. Armstrong's voluntary provision of aid to Plevin to work on Corydon's litigation is a direct violation of paragraphs 7(G) and 10 of the Agreement.

69. As a direct and proximate result of Armstrong's breach of the Agreement by providing voluntary assistance to Plevin in Corydon's litigation, plaintiff has incurred damages which are not presently calculable. In no event, however, are they less than the jurisdictional minimum of this Court. Consequently, for this breach plaintiff seeks compensatory and consequential damages according to proof.

ELEVENTH CAUSE OF ACTION Denied

(Against Armstrong for Breach of Contract)

70. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59, 61-65, 67-69, inclusive, and incorporates them herein by reference.

71. On May 27, 1992, after plaintiff's motion for preliminary injunction in this matter had been argued, and while a determination of that motion was still pending, Armstrong voluntarily provided a declaration to Gary M. Bright and Jerold Fagelbaum, attorneys for defendants David Mayo, Church of the New Civilization, John Nelson, Harvey Haber, Vivien Zegel and Dede

Reisdorf in the consolidated cases of Religious Technology Center, et al. v. Robin Scott, et al., and Religious Technology Center, et al. v. Wollersheim, et al., United States District Court for the Central District of California, Case Nos. CV 85-711 JMI (Bx) and CV 85-7197 JMI (Bx) (the "Scott case"). The plaintiffs in the Scott case are plaintiff, Church of Scientology International, Church of Scientology of California, and Religious Technology Center, all entities specifically protected by the Agreement.

72. In his May 27, 1992 declaration, Armstrong purports to authenticate an earlier declaration which describes some of his alleged experiences with and concerning plaintiff, as well as a portion of a transcript which was ordered sealed in the earlier action between plaintiff and defendant. These actions and disclosures are violations of paragraphs 7(G), 7(H) and 10 of the Agreement, requiring that Armstrong pay to CSI $50,000 in liquidated damages.

73. As a direct and proximate result of Armstrong's breach of the Agreement by providing voluntary assistance to Bright and Fagelbaum in the Scott case, plaintiff has incurred additional damages which are not presently calculable. In no event, however, are they less than the jurisdictional minimum of this Court. Consequently, for this breach plaintiff also seeks compensatory and consequential damages according to proof.

TWELFTH CAUSE OF ACTION

(Against All Defendants for Breach of Contract)

74. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59, 61-65, 67-69, 71-73,

inclusive, and incorporates them herein by reference.

75. Since August, 1991, Armstrong has worked as a paralegal for attorney Ford Greene. Mr. Greene's practice consists substantially of pressing claims by former Scientologists against the plaintiff and other individuals and entities identified in paragraph 1 as beneficiaries of the Agreement (collectively, "the Beneficiaries").

76. Among Mr. Greene's clients who are pressing claims against one or more of the Beneficiaries are Ed Roberts and Denise Cantin.

77. While working in Mr. Greene's office, Armstrong provided substantial paralegal assistance to Mr. Greene in the Ed Roberts and Denise Cantin matters. In the case of Roberts, for example, Armstrong went to Colorado and interviewed Roberts in November, 1991, and has interviewed him at least seven times since then. In December, 1992, Armstrong even made a settlement demand to plaintiff's counsel on behalf of Roberts, without bothering to go through Roberts' attorney, Mr. Greene.

78. Armstrong's employment by Greene to work on the Roberts and Cantin matters is a direct violation of paragraphs 7(G) and 10 of the Agreement.

79. As a direct and proximate result of Armstrong's breach of the agreement by providing paralegal assistance to Greene on the Roberts and Cantin matters, plaintiff has incurred damages which are not presently calculable. In no event, however, are they less than the jurisdictional minimum of this Court. Consequently, for this breach plaintiff seeks compensatory and consequential damages according to proof.

THIRTEENTH CAUSE OF ACTION Granted

(For Breach of Contract Against All Defendants)

80. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59, 61-65, 7-69, 71-73 and 75-79, inclusive, and incorporates them herein by reference.

81. In or about November, 1992, in Los Angeles, California, Armstrong attended a convention of the Cult Awareness Network, an anti-religious group whose members advocate the kidnapping and "deprogramming" of persons belonging to groups which they label "cults." While at the convention, Armstrong provided a lengthy videotaped interview to deprogramming specialist Jerry Whitfield. A true and correct copy of the transcript of the videotape is attached hereto as Exhibit D. Said videotaped interview violates the Agreement in that it purportedly contains disclosures by Armstrong of his claimed experiences with Scientology as prohibited by paragraph 7(D) of the Agreement.

82. In addition, the videotaped interview devotes an entire section to a description of the earlier action resulting from the Settlement Agreement and to a description of the Settlement Agreement itself. The making of the videotape violated the provisions of paragraphs 7(D) and 18 of the Agreement.

83. In addition, plaintiff is informed and therefore believes that Armstrong has distributed the videotape to persons other than Whitfield, the number of which plaintiff has still to ascertain. The provision of the videotape by Armstrong to any person additionally violates paragraphs 7(D) and 18 of the Agreement.

84. In addition, while at the CAN convention, Armstrong

spoke with approximately fifty (50) people, and willingly disclosed to them his claimed experiences with Scientology, in violation of paragraphs 7(D) and 18 of the Agreement.

85. By reason of the foregoing breaches by Armstrong, plaintiff is entitled to at least $150,000 in liquidated damages, and further liquidated damages subject to proof.

FOURTEENTH CAUSE OF ACTION

(For Breach of Contract Against All Defendants)

86. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59, 61-65, 67-69, 71-73, 75-79 and 81-85, inclusive, and incorporates them herein by reference.

87. On or about December 22, 1992, Armstrong sent a letter to, inter alia, Malcolm Nothling, Ed Roberts, Lawrence Wollersheim, Richard Aznaran, Vicki Aznaran, Richard Behar, Ford Greene, Paul Morantz, Joseph A. Yanny, Toby L. Plevin, Graham E. Berry, Stuart Cutler, Anthony Laing, John C. Elstead, Fr. Kent Burtner, Margaret Singer, Cult Awareness Network and Daniel A. Leipold. Each of these individuals or organizations is (a) engaged in litigation against plaintiff and/or other Beneficiaries; (b) an avowed adversary of plaintiff and/or other Beneficiaries; and/or (c) an attorney who represents or has represented litigants and/or adversaries of plaintiff and/or other Beneficiaries. A true and correct copy of the letter sent by Armstrong is attached hereto as Exhibit E. Said letter violates the Agreement in that it contains purported disclosures by Armstrong of his claimed experiences with Scientology as prohibited by paragraph 7(D).

88. In addition, the letter devotes an entire section to a

description of the earlier action resulting from the breaches of the Settlement Agreement and to a description of the Settlement Agreement itself. The sending of the letter to plaintiff's adversaries violated the provision of paragraph 7(D) of the Agreement.

89. By reason of the foregoing breach of the Agreement, plaintiff is entitled to $950,000 in liquidated damages.

FIFTEENTH CAUSE OF ACTION

(Against All Defendants for Breach of Contract)

90. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59, 61-65, 71-73, 75-79, 81-85 and 87-89, inclusive and incorporates them herein by reference.

91. According to Armstrong, sometime between December 22, 1992 and March 10, 1993, he spoke at an event at which approximately 30 to 40 people were present. At this event, Armstrong spoke of, inter alia, his claimed experiences with Scientology, in violation of at least paragraphs 7(D) and 18 of the Agreement, and received monetary compensation for his speech.

92. By reason of the foregoing breach of the Agreement, plaintiff is entitled to $50,000 in liquidated damages.

SIXTEENTH CAUSE OF ACTION

Granted

(Against All Defendants for Breach of Contract)

93. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59, 61-65, 71-73, 75-79, 81-85, 87-89, 91-92, inclusive, and incorporates them herein by reference.

94. In or about June, 1993, Armstrong gave an interview to one or more reporters from Newsweek magazine, which also violated

paragraph 7(D) of the Agreement. Plaintiff is informed, and therefore believes, that during the course of his interview with the Newsweek reporter(s), whose identity is known to defendants but not to plaintiff, Armstrong stated that the Founder of the Scientology faith, L. Ron Hubbard, wanted "rich Scientologists to buy huge quantities of [The Way to Happiness] for distribution. He wanted to go down in history as a scientist or a philosopher or both." Attached hereto and incorporated herein by reference as Exhibit F is a true and correct copy of the Newsweek article which featured this statement made voluntarily by Armstrong in a media interview. The provision of this interview by Armstrong violated the provisions of paragraphs 2, 7(D) and 18 of the Agreement.

95. By reason of the foregoing breach of the Agreement, plaintiff is entitled to $50,000 in liquidated damages.

SEVENTEENTH CAUSE OF ACTION Granted

(Against All Defendants for Breach of Contract)

96. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59, 61-65, 67-69, 71-73, 75-79, 81-85, 87-89, 91-92 and 94-95, inclusive, and incorporates them herein by reference.

97. In or about August, 1993, Armstrong gave an interview to one or more reporters from Entertainment Television, with the intention that the reporters broadly republish the interview on national television, which also violated paragraph 7(D) of the Agreement. During the course of his interview with the Entertainment Television reporter(s), whose identity is known to defendants but not to plaintiff, Armstrong made statements

concerning his claimed experiences with Scientology. Further, Armstrong provided to Entertainment Television a copy of a manuscript entitled: "ONE HELL OF A STORY An Original Treatment Written for Motion Picture Purposes Created and Written by Gerald Armstrong" (hereinafter, "the treatment"). Plaintiff is informed and believes that the treatment so provided includes detailed descriptions of Armstrong's alleged experiences in and concerning Scientology, including a description of Church scriptures which are considered sacred and confidential by the Church. Portions of the Armstrong interview and the treatment were shown on Entertainment Television's "Entertainment Tonight" show on August 5, 1993. The provision of this interview and the treatment by Armstrong to Entertainment Television violated the provisions of at least paragraphs 7(D) and 18 of the Agreement.

98. By reason of the foregoing breach of the Agreement, plaintiff is entitled to $50,000 in liquidated damages.

EIGHTEENTH CAUSE OF ACTION

(Against All Defendants for Injunctive Relief)

99. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 43-45, 47-48, 50-56, 58-59, 61-65, 67-69, 71-73, 75-79, 81-85, 87-89, 91-92, 94-95, 97-98, inclusive, and incorporates them herein by reference.

100. In or about June 1993, defendant Armstrong caused the formation of and became a director and officer of a Colorado corporation which he called Fight Against Coercive Tactics, Inc. ("FACTI"). One of the avowed purposes of this corporation is to foment civil litigation against plaintiff and the other entities and individuals protected by the Agreement. Armstrong formed

FACTI to implement his plan to foment such litigation.

101. Armstrong has established FACTI to create an electronic "library" that would feature, inter alia, hundreds of documents, declarations, exhibits and arguments prepared by Armstrong which discuss and pertain to the Beneficiaries, and to attempt to "shelter" these contractual breaches under a corporate name and the rubric of First Amendment privilege.

102. Armstrong has provided an entire assortment of documents to FACTI for its electronic library, including a copy of the settlement agreement herein, scores of declarations, and documents which Armstrong retained in violation of paragraph 7(E) of the Agreement. Providing these documents to FACTI with the intention that FACTI distribute them to others, including but not limited to other litigants, is a breach of paragraphs 7(H) and 7(D) of the Agreement.

103. In or about January, 1994, Armstrong, using FACTI, sent a mass mailing to an as yet unascertained number of people, including members of the Scientology faith. In the mailing, Armstrong exhorts recipients to bring civil actions against the Church, stating that he is collecting negative information about the plaintiff "to assist ongoing litigation." Further, Armstrong requests the addresses of and ways to contact the family members of senior Church executives, an action which is clearly intended for the purpose of harassment.

104. To further the fomenting of litigation, the mailing contains a list, based on rumor, falsehood and innuendo, of persons supposedly harmed or injured by their belief in the Scientology religion. Plaintiff is informed and believes that

Armstrong, using FACTI as his cover, provided that list to Graham Berry, an attorney representing defendant Uwe Geertz in the case of Church of Scientology International v. Steven Fishman, et al., United States District Court for the Central District of Los Angeles, Case No. 91-6426 HLH (Tx), which Berry then used against the Church in that action.

105. Armstrong's provision of assistance to Geertz and scores of other as yet unidentified would-be litigants is a direct violation of paragraphs 7(G) and 10 of the Agreement.

106. As a direct and proximate result of Armstrong's breach of the agreement via FACTI, plaintiff has incurred damages which are not presently calculable. In no event, however, are they less than the jurisdictional minimum of this Court. Consequently, for this breach plaintiff seeks compensatory and consequential damages according to proof.

NINETEENTH CAUSE OF ACTION Granted

(Against Armstrong for Breach of Contract)

107. Plaintiff realleges paragraphs 1-19, 21-28, 30 -34, 36-38, 40-41, 47-48, 50-56, 58-59, 61-65, 67-69, 71-73, 75-79, 81-85, 87-89, 91-92, 94-95, 97-98, and 100-106, inclusive, and incorporates them herein by reference.

108. On or about February 22, 1994, Armstrong voluntarily provided a declaration to Graham E. Berry, Gordon C. Calhoun, and the law firm of Lewis, D'Amato, Brisbois & Bisgaard, attorneys for defendant Uwe Geertz in the case of Church of Scientology International v. Steven Fishman and Uwe Geertz, United States District Court for the Central District of California, Case No. CV 91-6426 HLH (Tx). The declaration consists of a 14-page

discussion of his claimed experiences with and concerning plaintiff.

109. In his February 22, 1994 declaration, Armstrong also purports to authenticate a document which he titles "Find a Better Basket," and which he claims is both a literary work and a declaration. Armstrong further claims that "Find a Better Basket" describes some of his alleged experiences with and concerning plaintiff.

110. These actions and disclosures are violations of paragraphs 7(G), 7(H) and 10 of the Agreement, requiring that Armstrong pay to CSI $50,000 in liquidated damages.

111. As a direct and proximate result of Armstrong's breach of the Agreement by providing voluntary assistance to Berry and Calhoun in the Fishman case, plaintiff has incurred additional damages which are not presently calculable. In no event, however, are they less than the jurisdictional minimum of this Court. Consequently, for this breach plaintiff also seeks compensatory and consequential damages according to proof.

TWENTIETH CAUSE OF ACTION Granted

(Against All Defendants for Injunctive Relief)

112. Plaintiff realleges paragraphs 1-19, 21-28, 30-34, 36-38, 40-41, 47-48, 50-56, 58-59, 61-65, 67-69, 71-73, 75-79, 81-85, 87-89, 91-92, 94-95, 97-98, 100-106 and 108-111, inclusive, and incorporates them herein by reference.

113. On or about April 28, 1993, plaintiff learned that Armstrong intended to appear that day on radio station KFAX and disclose his claimed experiences with Scientology. Plaintiff's counsel, Laurie Bartilson, faxed a letter to Armstrong and his

attorney, informing him that plaintiff would consider any such appearance to be a violation of the Agreement, and would subject Armstrong to the liquidated damages provision contained therein. In response, Armstrong sent a letter to Ms. Bartilson which stated, inter alia,

> Your threat that you will subject me to the liquidated damages provision of the settlement agreement for appearing on KFAX is obscene. Even its inclusion in the settlement agreement; that is $50,000.00 per word I write or speak about your organization is obscene....

In addition, Armstrong asserted that settlement agreements were an "antisocial policy" of plaintiff. He stated that he would not stop making media appearances and speeches, and that he had more planned for the near future if plaintiff did not immediately accede to his demands:

> I expect to be doing various media appearances in the near future and talks to various groups, including one I have already agreed to with a university psychology class. I think it would be very beneficial, therefore, to resolve our differences as soon as possible by your organization's clear repudiation of its antisocial policies and practices, so that I can have good things to report at these talks.

114. In or about June, 1993, Armstrong made good his threats, and gave an interview to a reporter(s) from Newsweek magazine, as described in paragraph 94, supra.

115. On July 2, 1993, again making good his threats, Armstrong appeared in Los Angeles, California at the Los Angeles Superior Court. He attended a hearing in the Wollersheim II case, and afterwards gave an interview to a reporter who claimed to be "working on a story," but refused to identify himself.

116. In or about August, 1993, Armstrong gave an interview to reporters from Entertainment Television, as described in

paragraph 97, supra.

117. In or about August, 1993, Armstrong delivered to Entertainment Television a motion picture "treatment" concerning his experiences in and concerning Scientology, and told reporters for Entertainment Television that he was trying to "sell" the treatment, and have his claimed experiences portrayed in a motion picture.

118. In his February 22, 1994 declaration, which Armstrong provided to attorneys for litigant Uwe Geertz, Armstrong purported to authenticate a document which he titles "Find a Better Basket." Armstrong further claims that "Find a Better Basket" supposedly describes some of his alleged experiences with and concerning plaintiff is the treatment for a screenplay which he hopes to sell.

119. As described in paragraphs 100-103, supra, Armstrong has, in concert with others, created a computer bulletin board which has as its purpose facilitating continuous breaches of the Agreement by electronic means.

120. As a direct and proximate result of Armstrong's breach of the Agreement by disclosing his experiences, by making media appearances, by repeatedly providing assistance to litigants, would-be claimants and their attorneys, and by creating and operating FACTI, which breaches are persistent and continuing, CSI is and will continue to be irreparably harmed, and unless Armstrong and those acting in concert with him are preliminarily and permanently enjoined from continuing that unlawful conduct, further irreparable harm will be caused to CSI.

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ON THE FIRST CAUSE OF ACTION

1. For compensatory and consequential damages according to proof.

2. For attorneys' fees and costs of suit.

ON THE SECOND CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.

2. For attorneys' fees and costs of suit.

ON THE THIRD CAUSE OF ACTION

1. For compensatory and consequential damages according to proof.

2. For attorneys' fees and costs of suit.

ON THE FOURTH CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.

2. For attorneys' fees and costs of suit.

ON THE FIFTH CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.

2. For compensatory and consequential damages according to proof.

3. For attorneys' fees and costs of suit.

ON THE SIXTH CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.

2. For attorneys' fees and costs of suit.

ON THE SEVENTH CAUSE OF ACTION

1. For liquidated damages in the amount of $250,000.

2. For attorneys' fees and costs of suit.

ON THE EIGHTH CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.

2. For attorneys' fees and costs of suit.

ON THE NINTH CAUSE OF ACTION

1. For compensatory and consequential damages according to proof.

2. For liquidated damages in the amount of $50,000.

3. For attorneys' fees and costs of suit.

ON THE TENTH CAUSE OF ACTION

1. For compensatory and consequential damages according to proof.

2. For attorneys' fees and costs of suit.

ON THE ELEVENTH CAUSE OF ACTION

1. For compensatory and consequential damages according to proof.

2. For liquidated damages in the amount of $50,000.

3. For attorneys' fees and costs of suit.

ON THE TWELFTH CAUSE OF ACTION

1. For compensatory and consequential damages according to proof.

2. For attorneys' fees and costs of suit.

ON THE THIRTEENTH CAUSE OF ACTION

1. For liquidated damages of $150,000, and further liquidated damages according to proof.

2. For attorneys' fees and costs of suit.

ON THE FOURTEENTH CAUSE OF ACTION

1. For liquidated damages in the amount of $950,000.

2. For attorneys' fees and costs of suit.

ON THE FIFTEENTH CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.

2. For attorneys' fees and costs of suit.

ON THE SIXTEENTH CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.
2. For attorneys' fees and costs of suit.

ON THE SEVENTEENTH CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.
2. For attorneys' fees and costs of suit.

ON THE EIGHTEENTH CAUSE OF ACTION

1. For compensatory and consequential damages according to proof.
2. For attorneys' fees and costs of suit.

ON THE NINETEENTH CAUSE OF ACTION

1. For liquidated damages in the amount of $50,000.
2. For compensatory and consequential damages according to proof.
3. For attorneys' fees and costs of suit.

ON THE TWENTIETH CAUSE OF ACTION

1. For a preliminary and permanent injunction prohibiting and restraining all defendants, including Armstrong, from violating any of the provisions of the Agreement, including the provisions of paragraphs 7(D), 7(E), 7(G), 7(H) and 18(D).

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ON ALL CAUSES OF ACTION

1. For such other and further relief as the Court may deem just and proper.

DATED: April 4, 1994

BOWLES & MOXON

By: ______________________
Laurie J. Bartilson

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

H:\ARMSTRON\NEWCOMP

VERIFICATION

I, LYNN R. FARNY, declare as follows:

I am Secretary of the Plaintiff, Church of Scientology International, in the above-entitled matter. I have read the foregoing Verified Second Amended Complaint for Damages and for Preliminary and Permanent Injunctive Relief for Breach of Contract and know the contents thereof, which are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under the penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed on April 4, 1994, at Los Angeles, California.

Lynn R. Farny

LYNN R. FARNY

EXHIBIT A

MUTUAL RELEASE OF ALL CLAIMS AND SETTLEMENT AGREEMENT

1. This Mutual Release of All Claims and Settlement Agreement is made between Church of Scientology International (hereinafter "CSI") and Gerald Armstrong, (hereinafter "Plaintiff") Cross-Complainant in Gerald Armstrong v. Church of Scientology of California, Los Angeles Superior Court, Case No. 420 153. By this Agreement, Plaintiff hereby specifically waives and releases all claims he has or may have from the beginning of time to and including this date, including all causes of action of every kind and nature, known or unknown for acts and/or omissions against the officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel of CSI as well as the Church of Scientology of California, its officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel; Religious Technology Center, its officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel; all Scientology and Scientology affiliated organizations and entities and their officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel; Author Services, Inc., its officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel; L. Ron Hubbard, his heirs, beneficiaries, Estate and its executor; Author's Family Trust, its beneficiaries and its trustee; and Mary Sue Hubbard, (all hereinafter collectively referred to as the

EXHIBIT A

"Releasees"). The parties to this Agreement hereby agree as follows:

2. It is understood that this settlement is a compromise of doubtful and disputed claims, and that any payment is not to be construed, and is not intended, as an admission of liability on the part of any party to this Agreement, specifically, the Releasees, by whom liability has been and continues to be expressly denied. In executing this settlement Agreement, Plaintiff acknowledges that he has released the organizations, individuals and entities listed in the above paragraph, in addition to those defendants actually named in the above lawsuit, because among other reasons, they are third party beneficiaries of this Agreement.

3. Plaintiff has received payment of a certain monetary sum which is a portion of a total sum of money paid to his attorney, Michael J. Flynn. The total sum paid to Mr. Flynn is to settle all of the claims of Mr. Flynn's clients. Plaintiff's portion of said sum has been mutually agreed upon by Plaintiff and Michael J. Flynn. Plaintiff's signature below this paragraph acknowledges that Plaintiff is completely satisfied with the monetary consideration negotiated with and received by Michael J. Flynn. Plaintiff acknowledges that there has been a block settlement between Plaintiff's attorney, Michael J. Flynn, and the Church of Scientology and Churches and entities related to the Church of Scientology, concerning all of Mr. Flynn's clients who were in litigation with any Church of Scientology or related entity. Plaintiff has received a portion of this block

amount, the receipt of which he hereby acknowledges. Plaintiff understands that this amount is only a portion of the block settlement amount. The exact settlement sum received by Plaintiff is known only to Plaintiff and his attorney, Michael J. Flynn, and it is their wish that this remain so and that this amount remain confidential.

Signature line for Gerald Armstrong

4. For and in consideration of the above described consideration, the mutual covenants, conditions and release contained herein, Plaintiff does hereby release, acquit and forever discharge, for himself, his heirs, successors, executors, administrators and assigns, the Releasees, including Church of Scientology of California, Church of Scientology International, Religious Technology Center, all Scientology and Scientology affiliated organizations and entities, Author Services, Inc. (and for each organization or entity, its officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel); L. Ron Hubbard, his heirs, beneficiaries, Estate and its executor; Author's Family Trust, its beneficiaries and trustee; and Mary Sue Hubbard, and each of them, of and from any and all claims, including, but not limited to, any claims or causes of action entitled Gerald Armstrong v. Church of Scientology of California, Los Angeles Superior Court, Case No. 420 153 and all demands, damages, actions and causes of actions of every kind and nature, known or unknown,

for or because of any act or omission allegedly done by the Releasees, from the beginning of time to and including the date hereof. Therefore, Plaintiff does hereby authorize and direct his counsel to dismiss with prejudice his claims now pending in the above referenced action. The parties hereto will execute and cause to be filed a joint stipulation of dismissal in the form of the one attached hereto as Exhibit "A".

A. It is expressly understood by Plaintiff that this release and all of the terms thereof do not apply to the action brought by the Church of Scientology against Plaintiff for Conversion, Fraud and other causes of action, which action has already gone to trial and is presently pending before the Second District, Third Division of the California Appellate Court (Appeal No. B005912). The disposition of those claims are controlled by the provisions of the following paragraph hereinafter.

B. As of the date this settlement Agreement is executed, there is currently an appeal pending before the California Court of Appeal, Second Appellate District, Division 3, arising out of the above referenced action delineated as Appeal No. B005912. It is understood that this appeal arises out of the Church of Scientology's complaint against Plaintiff which is not settled herein. This appeal shall be maintained notwithstanding this Agreement. Plaintiff agrees to waive any rights he may have to take any further appeals from any decision eventually reached by the Court of Appeal or any rights he may have to oppose (by responding brief or any other means) any further appeals taken by the Church of

Scientology of California. The Church of Scientology of California shall have the right to file any further appeals it deems necessary.

5. For and in consideration of the mutual covenants, conditions and release contained herein, and Plaintiff dismissing with prejudice the action Gerald Armstrong v. Church of Scientology of California, Los Angeles Superior Court, Case No. 420 153, the Church of Scientology of California does hereby release, acquit and forever discharge for itself, successors and assigns, Gerald Armstrong, his agents, representatives, heirs, successors, assigns, legal counsel and estate and each of them, of and from any and all claims, causes of action, demands, damages and actions of every kind and nature, known or unknown, for or because of any act or omission allegedly done by Gerald Armstrong from the beginning of time to and including the date hereof.

6. In executing this Agreement, the parties hereto, and each of them, agree to and do hereby waive and relinquish all rights and benefits afforded under the provisions of Section 1542 of the Civil Code of the State of California, which provides as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

7. Further, the undersigned hereby agree to the following:

A. The liability for all claims is expressly denied by the parties herein released, and this final compromise and

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settlement thereof shall never be treated as an admission of liability or responsibility at any time for any purpose.

B. Plaintiff has been fully advised and understands that the alleged injuries sustained by him are of such character that the full extent and type of injuries may not be known at the date hereof, and it is further understood that said alleged injuries, whether known or unknown at the date hereof, might possibly become progressively worse and that as a result, further damages may be sustained by Plaintiff; nevertheless, Plaintiff desires by this document to forever and fully release the Releasees. Plaintiff understands that by the execution of this release no further claims arising out of his experience with, or actions by, the Releasees, from the beginning of time to and including the date hereof, which may now exist or which may exist in the future may ever be asserted by him or on his behalf, against the Releasees.

C. Plaintiff agrees to assume responsibility for the payment of any attorney fee, lien or liens, imposed against him past, present, or future, known or unknown, by any person, firm, corporation or governmental entity or agency as a result of, or growing out of any of the matters referred to in this release. Plaintiff further agrees to hold harmless the parties herein released, and each of them, of and from any liability arising therefrom.

D. Plaintiff agrees never to create or publish or attempt to publish, and/or assist another to create for publication by means of magazine, article, book or other similar form, any writing or to broadcast or to assist another to create, write, film or video tape or audio tape any show, program or movie, or to grant interviews or discuss with others, concerning their experiences with the Church of Scientology, or concerning their personal or indirectly acquired knowledge or information concerning the Church of Scientology, L. Ron Hubbard or any of the organizations, individuals and entities listed in Paragraph 1 above. Plaintiff further agrees that he will maintain strict confidentiality and silence with respect to his experiences with the Church of Scientology and any knowledge or information he may have concerning the Church of Scientology, L. Ron Hubbard, or any of the organizations, individuals and entities listed in Paragraph 1 above. Plaintiff expressly understands that the non-disclosure provisions of this subparagraph shall apply, inter alia, but not be limited, to the contents or substance of his complaint on file in the action referred to in Paragraph 1 hereinabove or any documents as defined in Appendix "A" to this Agreement, including but not limited to any tapes, films, photographs, recastings, variations or copies of any such materials which concern or relate to the religion of Scientology, L. Ron Hubbard, or any of the organizations, individuals, or entities listed in Paragraph 1 above. The attorneys for Plaintiff, subject to the ethical limitations restraining them as promulgated by the state or federal regulatory associations or agencies, agree not to disclose any of the terms and conditions of the settlement negotiations, amount of the settlement, or statements made by either party during settlement conferences. Plaintiff agrees that if the terms of this paragraph are breached by him, that CSI and the other Releasees would be entitled to liquidated damages in the amount of $50,000 for each such breach. All monies received to induce or in payment for a breach of this Agreement, or any part thereof, shall be held in a constructive trust pending the outcome of any litigation over said breach. The amount of liquidated damages herein is an estimate of the damages that each party would suffer in the event this Agreement is breached. The reasonableness of the amount of such damages are hereto acknowledged by Plaintiff.

E. With exception to the items specified in Paragraph 7(L), Plaintiff agrees to return to the Church of Scientology International at the time of the consummation of this Agreement, all materials in his possession, custody or control (or within the possession, custody or control of his attorney, as well as third parties who are in possession of the described documents), of any nature, including originals and all copies or summaries of documents defined in Appendix "A" to this Agreement, including but not limited to any tapes, computer disks, films, photographs, recastings, variations or copies of any such materials which concern or relate to the religion of Scientology, L. Ron Hubbard or any of the organizations, individuals or entities listed in Paragraph 1 above, all evidence of any nature, including evidence obtained from the named defendants through discovery, acquired for the purposes of this lawsuit or any lawsuit, or acquired for any other purpose concerning any Church of Scientology, any financial or administrative materials concerning any Church of Scientology, and any materials relating personally to L. Ron Hubbard, his family, or his estate. In addition to the documents and other items to be returned to the Church of Scientology International listed above and in Appendix "A", Plaintiff agrees to return the following:

(a) All originals and copies of the manuscript for the work "Excalibur" written by L. Ron Hubbard;

(b) All originals and copies of documents commonly known as the "Affirmations" written by L. Ron Hubbard; and

(c) All documents and other items surrendered to the Court by Plaintiff and his attorneys pursuant to Judge Cole's orders of August 24, 1982 and September 4, 1982 and all documents and other items taken by the Plaintiff from either the Church of Scientology or Omar Garrison. This includes all documents and items entered into evidence or marked for identification in Church of Scientology of California v. Gerald Armstrong, Case No. C 420 153. Plaintiff and his attorney will execute a Joint Stipulation or such other documents as are necessary to obtain these documents from the Court. In the event any documents or other items are no longer in the custody or control of the Los Angeles Superior Court, Plaintiff and his counsel will assist the Church in recovering these documents as quickly as possible, including but not limited to those tapes and other documents now in the possession of the United States District Court in the case of United States v. Zolin, Case No. CV

85-0440-HLH(Tx), presently on appeal in the Ninth Circuit Court of Appeals. In the event any of these documents are currently lodged with the Court of Appeal, Plaintiff and his attorneys will cooperate in recovering those documents as soon as the Court of Appeal issues a decision on the pending appeal.

To the extent that Plaintiff does not possess or control documents within categories A-C above, Plaintiff recognizes his continuing duty to return to CSI any and all documents that fall within categories A-C above which do in the future come into his possession or control.

F. Plaintiff agrees that he will never again seek or obtain spiritual counselling or training or any other service from any Church of Scientology, Scientologist, Dianetics or Scientology auditor, Scientology minister, Mission of Scientology, Scientology organization or Scientology affiliated organization.

G. Plaintiff agrees that he will not voluntarily assist or cooperate with any person adverse to Scientology in any proceeding against any of the Scientology organizations, individuals, or entities listed in Paragraph 1 above. Plaintiff also agrees that he will not cooperate in any manner with any organizations aligned against Scientology.

H. Plaintiff agrees not to testify or otherwise participate in any other judicial, administrative or legislative proceeding adverse to Scientology or any of the Scientology Churches, individuals or entities listed in Paragraph 1 above unless compelled to do so by lawful subpoena or other lawful process. Plaintiff shall not make himself amenable to service of any such subpoena in a manner which invalidates the intent of this provision. Unless required to do so by such subpoena, Plaintiff agrees not to discuss this litigation or his experiences with and knowledge of the Church with anyone other than members of his immediate family. As provided hereinafter in Paragraph 18(d), the contents of this Agreement may not be disclosed.

I. The parties hereto agree that in the event of any future litigation between Plaintiff and any of the organizations, individuals or entities listed in Paragraph 1 above, that any past action or activity, either alleged in this lawsuit or activity similar in fact to the evidence that was developed during the course of this lawsuit, will not be used by either party against the other in any future litigation. In other words, the "slate" is wiped clean concerning past actions by any party.

J. It is expressly understood and agreed by Plaintiff that any dispute between Plaintiff and his counsel as to the proper division of the sum paid to Plaintiff by his attorney of record is between Plaintiff and his attorney of record and shall in no way affect the validity of this Mutual Release of All Claims and Settlement Agreement.

K. Plaintiff hereby acknowledges and affirms that he is not under the influence of any drug, narcotic, alcohol or other mind-influencing substance, condition or ailment such that his ability to fully understand the meaning of this Agreement and the significance thereof is adversely affected.

L. Notwithstanding the provisions of Paragraph 7(E) above, Plaintiff shall be entitled to retain any artwork created by him which concerns or relates to the religion of Scientology, L. Ron Hubbard or any of the organizations, individuals or entities listed in Paragraph 1 above provided that such artwork never be disclosed either directly or indirectly, to anyone. In the event of a disclosure in breach of this Paragraph 7(L), Plaintiff shall be subject to the liquidated damages and constructive trust provisions of Paragraph 7(D) for each such breach.

8. Plaintiff further agrees that he waives and relinquishes any right or claim arising out of the conduct of any defendant in this case to date, including any of the organizations, individuals or entities as set forth in Paragraph 1 above, and the named defendants waive and relinquish any right or claim arising out of the conduct of Plaintiff to date.

9. This Mutual Release of All Claims and Settlement Agreement contains the entire agreement between the parties hereto, and the terms of this Agreement are contractual and not a mere recital. This Agreement may be amended only by a written instrument executed by Plaintiff and CSI. The parties hereto have carefully read and understand the contents of this Mutual Release of All Claims and Settlement Agreement and sign the same of their own free will, and it is the intention of the parties to be legally bound hereby. No other prior or contemporaneous agreements, oral or written, respecting such matters, which are not specifically

incorporated herein shall be deemed to in any way exist or bind any of the parties hereto.

10. Plaintiff agrees that he will not assist or advise anyone, including individuals, partnerships, associations, corporations, or governmental agencies contemplating any claim or engaged in litigation or involved in or contemplating any activity adverse to the interests of any entity or class of persons listed above in Paragraph 1 of this Agreement.

11. The parties to this Agreement acknowledge the following:

A. That all parties enter into this Agreement freely, voluntarily, knowingly and willingly, without any threats, intimidation or pressure of any kind whatsoever and voluntarily execute this Agreement of their own free will;

B. That all parties have conducted sufficient deliberation and investigation, either personally or through other sources of their own choosing, and have obtained advice of counsel regarding the terms and conditions set forth herein, so that they may intelligently exercise their own judgment in deciding whether or not to execute this Agreement; and

C. That all parties have carefully read this Agreement and understand the contents thereof and that each reference in this Agreement to any party includes successors, assigns, principals, agents and employees thereof.

12. Each party shall bear its respective costs with respect to the negotiation and drafting of this Agreement and

all acts required by the terms hereof to be undertaken and performed by that party.

13. To the extent that this Agreement inures to the benefit of persons or entities not signatories hereto, this Agreement is hereby declared to be made for their respective benefits and uses.

14. The parties shall execute and deliver all documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Agreement.

15. This Agreement shall not be construed against the party preparing it, but shall be construed as if both parties prepared this Agreement. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

16. In the event any provision hereof be unenforceable, such provision shall not affect the enforceability of any other provision hereof.

17. All references to the plural shall include the singular and all references to the singular shall include the plural. All references to gender shall include both the masculine and feminine.

18.(A) Each party warrants that they have received independent legal advice from their attorneys with respect to the advisability of making the settlement provided for herein and in executing this Agreement.

(B) The parties hereto (including any officer, agent, employee, representative or attorney of or for any party) acknowledge that they have not made any statement, representation or promise to the other party regarding any fact material to this Agreement except as expressly set forth herein. Furthermore, except as expressly stated in this Agreement, the parties in executing this Agreement do not rely upon any statement, representation or promise by the other party (or of any officer, agent, employee, representative or attorney for the other party).

(C) The persons signing this Agreement have the full right and authority to enter into this Agreement on behalf of the parties for whom they are signing.

(D) The parties hereto and their respective attorneys each agree not to disclose the contents of this executed Agreement. Nothing herein shall be construed to prevent any party hereto or his respective attorney from stating that this civil action has been settled in its entirety.

(E) The parties further agree to forbear and refrain from doing any act or exercising any right, whether existing now or in the future, which act or exercise is inconsistent with this Agreement.

19. Plaintiff has been fully advised by his counsel as to the contents of this document and each provision hereof. Plaintiff hereby authorizes and directs his counsel to dismiss with prejudice his claims now pending in the action entitled Gerald Armstrong v. Church of Scientology of California, Los Angeles Superior Court, Case No. 420 153.

20. Notwithstanding the dismissal of the lawsuit pursuant to Paragraph 4 of this Agreement, the parties hereto agree that the Los Angeles Superior Court shall retain

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jurisdiction to enforce the terms of this Agreement. This Agreement may be enforced by any legal or equitable remedy, including but not limited to injunctive relief or declaratory judgment where appropriate. In the event any party to this Agreement institutes any action to preserve, to protect or to enforce any right or benefit created hereunder, the prevailing party in any such action shall be entitled to the costs of suit and reasonable attorney's fees.

21. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be a duplicate original, but all of which, together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date opposite their names.

Dated: December 6, 1986

GERALD ARMSTRONG

Witness

Witness

Dated: 12/6/86

APPROVED AS TO FORM AND CONTENT:

M. J. Flyn

MICHAEL J. FLYNN
Attorney for
GERALD ARMSTRONG

Dated: December 11, 1986

for
CHURCH OF SCIENTOLOGY
INTERNATIONAL

APPENDIX A

1. As used herein, the term "document" or "documents" include but are not limited to all originals, file copies and copies not identical to the original, no matter how prepared, of all writings, papers, notes, records, books and other tangible things including, by way of example and not of limitation, the following:

a. Memoranda, notes, calendars, appointment books, shorthand or stenographer's notebooks, correspondence, letters and telegrams, whether received, sent, filed or maintained internally;

b. Drafts and notes, whether typed, penciled or otherwise, whether or not used;

c. Minutes, reports and summaries of meetings;

d. Contracts, agreements, understandings, commitments, proposals and other business dealings;

e. Recordings, transcriptions and memoranda or notes made of any telephone or face-to-face oral conversations between or among persons;

f. Dictated tapes or other sound recordings;

g. Computer printouts or reports and the applicable program or programs therefor;

h. Tapes, cards or any other means by which data are stored or preserved electrically, electronically, magnetically or mechanically, and the applicable program or program therefor (from which plaintiff may reproduce or cause to be reproduced such data in written form);

i. Pictures, drawings, photographs, charts or other graphic representations;

j. Checks, bills, notes, receipts, or other evidence of payment;

k. Ledgers, journals, financial statements, accounting records, operating statements, balance sheets and statements of account.

EXHIBIT B

WHERE: Marin Superior Court, San Rafael Civic Center - Scientology vs. Armstrong No. 152229

March 20, 1992 at 9:00 a.m., Department 4.

* * * * * *

Can the Scientology Organization purchase the free speech rights of Gerald Armstrong - the former in-house biography researcher/archivist of cult leader L. Ron Hubbard - so that it can keep the facts that he knows out of public view in the marketplace of ideas?

A former high-ranking scientologist for 12 years, Armstrong split with the group when it insisted he continue lying about the accomplishments Hubbard claimed to the public at large. In 1982, the organization sued Armstrong for sending Hubbard documents to his lawyers. In 1984 at Armstrong's trial, Los Angeles Superior Court judge Paul G. Breckenridge, Jr., who ruled that Armstrong's actions had been manifestly justified, also found:

> "In addition to violating and abusing its own members civil rights, the organization over the years with its "Fair Game" doctrine has harassed and abused those persons not in the Church whom it perceives as enemies. The organization is clearly schizophrenic and paranoid, and this bizarre combination seems to be a reflection of its founder LRH [L. Ron Hubbard]. The evidence portrays a man who has been virtually a pathological liar when it comes to his history, background, and achievements. The writings and documents in evidence additionally reflect his egoism, greed, avarice, lust for power, and vindictiveness and aggressiveness against persons perceived by him to be disloyal or hostile."

For years, Scientology has treated Armstrong as a "suppressive person" who was "Fair Game." This policy says as Fair Game one

> "may be deprived of property or injured by any means by any Scientologist without any discipline of the Scientologist. May be tricked, sued or lied to or destroyed."

Defended by Ford Greene - the lawyer who persuaded the California Supreme Court that the Unification Church (Moonies) should be liable for brainwashing and who won an acquittal for a felonious-charged deprogrammer on the ground that the kidnapping was necessary to avoid cult-danger - Armstrong is resisting Scientology's high-powered attack in an effort to affirm his right to free speech to maintain vigilance for the truth.

After Armstrong beat Scientology's lawsuit against him in 1984, he was poised to prosecute his own claims. For millions of dollars, however, in 1986 Scientology settled with him and over 17 other Scientology-knowledgeable individuals on the condition that those persons would forever keep silent, avoid giving sworn testimony by evading subpoenas, and never aid or assist any one adverse to Scientology.

Between its full-page daily ads in U.S.A. Today and purchasing the silence of judicially-credible adversaries, Scientology's strategy is to eliminate the competition in the marketplace of ideas for those who would swallow the claims of its widespread advertisements for the benefits of Dianetics: The Science of Metal Health.

Scientology has demanded that newly-elevated Marin County Superior Court Judge Michael Dufficy give them a preliminary injunction which would prevent Armstrong from speaking out and assisting other individuals locked in litigation with Scientology - while at the same time fabricating false scenarios in other court proceedings that Armstrong was an agent of the IRS out to destroy it. If Scientology has its way, Armstrong would either roll over, or if he exposed its lies about him, Scientology would demand he be jailed for contempt of court.

When Scientology first came to Marin County to go after Armstrong, it asked the Court to conduct all proceedings in secret in closed proceedings. The Court refused. Then Scientology asked the Court to seal the settlement agreement that Scientology wants the Court to enforce. The Court refused. Now, Scientology has obtained a temporary restraining order compelling Armstrong not to speak out on the subject of Scientology. Scientology would like to make it permanent and will attempt to do just that at the March 20th Marin Superior Court hearing.

FOR FURTHER INFORMATION CALL: KIRK SEIDEL, Press Liaison
(415) 457-5711

FORD GREENE (415) 258-0360

EXHIBIT C

[SHOT: Studio setting]

NARRATOR: A former member of the Church of Scientology claims he has damaging information about the organization, but he's being silenced by a Court Order. Don Nab explains.

[CNN CAPTION: SCIENTOLOGY.]

[SHOT: Close up of Armstrong with Ford Greene behind him. Then a pan of the courtroom, with attorney Andy Wilson arguing and a shot of the Judge.]

Don Nab: Gerald Armstrong says he knows a lot about the Church of Scientology and he's fighting in court for the chance to tell it. A former archivist of the organization he had first hand access to records of Scientology's controversial founder, L. Ron Hubbard.

[SHOT: Close up of Armstrong in an office. Don Nab narrating]

Gerald Armstrong: I'm an expert in the misrepresentations Hubbard has made about himself from the beginning of Dianetics until the day he died.

Don Nab: But that's about all that he can say legally. The Church of Scientology slapped Armstrong with a Court Order to prevent him from talking about what he may know.

[SHOT: Excerpt of Video tape of 1986 settlement signing.]

Heller: You are going to sign this of your own free will.

Armstrong: Yes.

[CNN caption: December 1986.]

Heller: OK. You're not suffering from any duress or coersion which is compelling you to sign this document.

[CNN CAPTION: Video provided by Anti-Scientology Attorney.]

Armstrong: No.

eller: Alright, ...

Don Nab: As part of the lawsuit settlement documented by Scientology on this video tape, the Church paid Armstrong $800,000. In that settlement Armstrong agreed not talk about the Church, it's documents, or its founder.

[1ST SHOT: Wilson and Hertzberg sitting at counsel table.]
[2ND SHOT: Greene arguing at counsel table.]

Don Nab: Now, the Church of Scientology wants to block Armstrong from working with anti-Scientology attorney, Ford Greene.

Ford Greene: Gerald Armstrong possesses information about the Church of Scientology on first-hand basis that undercuts a lot of the claims that they make to the public on a daily basis in advertisements on TV and advertisements in newspapers.

[CNN CAPTION: Ford Greene, Anti-Scientology Attorney.]

HOT: Bartilson at counsel table with a stack of papers.]

Don Nab: Greene hired Armstrong as a paralegal, to help him with a lawsuit against Scientology in Los Angeles.

[SHOT: Wilson arguing at counsel table.]

Don Nab: Attorneys for the Church of Scientology claimed that Armstrong was breaking his settlement contract.

Andy Wilson: $800,000. $800,000 was paid to that man. And now that he's spent the money, he comes into this court and he says, "I don't have to keep my part of the bargain."

[CNN CAPTION: Andrew Wilson, Scientology Attorney.]

[SHOT: Judge Dufficy at Bench.]

Don Nab: Scientology won this round. The gag on Armstrong remains, for now.

[SHOT: Close up of Armstrong at counsel table.]

n Nab: Armstrong is not alone. 12 former Scientology members have accepted money to settle lawsuits with the Church.

[SHOT: Pleading packs on counsel table.]

Don Nab: The settlements included, promises to remain quiet and take no part in further litigation against the Church.

[SHOT: Greene in law office.].

Ford Greene: It'll be extremely damaging because Scientology has spent a whole ton of dough, on keeping not only Gerry silent but a lot of other people silent. And if Gerry's case unravels, it's the first domino, and all the rest of them are going to unravel ...

[SHOT: Green in law office with interviewer.]

Don Nab: Attorney Greene says, Armstrong's knowledge of Scientology an prove the Church is not what it says it is.

[SHOT: Outside of the Courtroom. Armstrong and Phippeny prominent.]

Don Nab: Scientology says, Armstrong accepted a lot of money not to discuss the Church and should keep his word. Don Nab, CNN, San Raphael, California.

EXHIBIT D

GERRY ARMSTRONG VIDEO INTERVIEW 6 NOVEMBER 1992

S = Spanky Taylor
G = Gerry Armstrong
J = Jerry Whitfield

S: We're here with Gerry Armstrong on the 6th of November 1992. Hi, Gerry.

G: Hi, Spanky.

S: Basically, what we're doing here is I want to find out a little bit about your Scientology experience, or, more than a little bit -- as much as we can, starting from when you got involved.

G: Ok.

S: So, tell me about that first.

G: I got involved in 1969 in Vancouver, British Columbia, Canada. And ... I spent a year and a half...

S: How old were you then?

G: Twenty-two. Spent about a year and a half in Vancouver. Worked in the local franchise, Scientology Little Mountain. And then in the beginning of '71 went off to save the world. Joined the Sea Org. Flew to LA. And was ... Signed my Sea Org contract at what was USLO. Then was on board the Bolivar, stationship down -- not exactly sure where it was...

S: San Pedro?

G: San Pedro, right. Then...

S: I loved the Bolivar.

G: And then by mid-February '71 was flown to New York, Madrid. Madrid took a train down to Algeciras. Algeciras across by ferry to Tangiers. There sitting in the Tangier harbor was the Apollo. I stayed on board except for brief missions off the ship or sometimes I'd go ashore for brief periods. But was on board 'til the fall of 1975. And we were, in those years, in Portugal, Morocco, Spain, and the little Atlantic islands -- Madeira, the Canarys, and then we made a circuit to the Caribbean islands -- Bermuda, Bahamas, Jamaica, Trinidad, Barbados, Netherlands Antilles.

S: Sounds like a Beach Boys saga. (Laughter) And you knew LRH?

G: Uh huh.

S: You married, your first marriage was... you married on Flag.

G: Yeah. I married his head messenger. Terry Gillham. Young Terry. She was a pretty good catch.

S: She was. She was.

G: I was organizationally a social climber. I really was. It just worked out that way, you know, I was in the right place at the right time I guess.

S: You had quite the wedding. I remember the photos very well.

G: Yeah? Yeah, I had a big double wedding along with Pat and Trudy Broeker.

S: That's right.

G: And through most of my time on board the ship I was the Legal Officer. We called it the Ship's Representative. I dealt with Immigration, Customs, and the Police and Harbor Master and handled all the needs of the ship while in port. And then I was the Public Relation's Officer Port Captain for a period of time. And then I was the Intelligence Officer through our time in the Caribbean. And when we went ashore, landed in Daytona, I was the Intelligence Officer again at the staging area for the Clearwater base which we had in Daytona at that time.

J: What's an Intelligence Officer?

G: Well...

S: It's a

G: ...they were talking about...

S: ... jumbo shrimp, what are those things called oxymorons?

G: Espionage. It's a Hubbard patterned -- his intelligence system, after Nazi system. Perfected, created, developed by Reinhardt Gehlen. And I was one person within a giant network of intelligence personnel operated by the Guardian's Office who were in turn operated by the Guardian, Mary Sue Hubbard, and L. Ron Hubbard. He merely directed on his long distance communication lines all the intelligence operations internationally.

J: What kind of intelligence operations -- we're talking

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about a church who has intelligence operations, a church with intelligence operations? Is that what you're saying? And you were there, you were involved in that? Is that what I'm hearing?

G: Right. Now I have a different perspective of course and I don't consider Scientology by any definition a "church" other than the fact that they have edifices -- buildings -- which could, if the activities therein were to change, could be churches. But the organization itself is not a church. But it's undeniable that it had intelligence organization and has been described as outside of the FBI and the CIA, the most formidable intelligence organization operating on the North American continent.

S: At this time, in the early times when you on the ship, you knew the offspring of L. Ron Hubbard. You knew his kids, as well?

G: Right.

S: Quentin and Diana, Arch and Suzette.

G: Right.

S: Tell me a little about them. I mean, you know, were they happy, were they well educated, were they ... because, of course, they were the offspring of this man with this tremendous wealth, did they receive the best of possible educations, did they lead a privileged life in terms of the...what was accessible to them in terms of in a society type of sense in terms of their education and their upbringing. Did they attend the finest finishing schools? Were they ... was Diana Hubbard a debutante. Do you know what I mean? Tell us about that.

G: I think she could have been a debutante but I don't think she was. I think that all the kids were pretty real in their own way, given the environment in which they found themselves and given the very odd circumstances of growing up in the Sea Organization. I suppose that the one I got closest to was Arthur. Arthur and I sort of ran tandem Sea Watch, or rather, gangway Quarter Master Watch for quite a period of time so I had the task of waking him up. He was pretty young at the time, maybe 13 or 14, I don't quite remember. It was always difficult waking him up and he would pull rank a little bit in that I didn't want to make too much noise waking him up in his cabin and there was always the threat that if you did anything out of line at all, Ron...

S: Son of Ron.

G: Son of Source.

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S: Right, son of Source. Aauugh. That word.

G: But all of them, I was on Diana's Sea Watch and she was a good Conning Officer. I think that all of the kids were intelligent and I think that they were all decent, good people.

S: Happy? Unhappy?

G: I think both. You know, happy at times, unhappy at times.

S: Sort of normal then.

G: Pretty normal.

S: And Quentin?

G: Quentin, I think much the same thing. He probably was the oddest of the lot, relative to the Sea Org experience. But we got along fine. I always found him to be perhaps the most understanding, in a way, in almost as if he had ...

S: Sensitive?

G: Yeah, sensitive. compassionate. Didn't pull rank and wasn't threatening in any way.

S: So then you were at Daytona when the base was originally moved there.

G: Uh huh.

S: And from that point.

G: Then we moved to Dunedin. At that point I was busted from the Guardian's Office. I was in the Guardian's Office Intelligence Bureau. And Mary Sue or Nikki who was her communicator deemed me a security risk of some kind and so I was removed from the Guardian's Office and I was assigned to Hubbard's Communication Bureau. So I became what was called the Deputy LRH External Communications Aide when we moved to Dunedin which was in December of 1975 and we had a secret base for Hubbard and his personal staff and Mary Sue and her personal staff at Dunedin in an apartment complex I guess about maybe eight miles from Clearwater. And I stayed there until June of '76 at which time I was sent to Culver City here in Los Angeles to set up a staging area for what became the base that was built in La Quinta.

And I was only there for a brief amount of time. I was there to set up this unit along with three other messengers. And Hubbard arrived, Mary Sue Hubbard arrived, and then I had a fight with Nikki, and Hubbard then assigned me -- first I was taken out of that unit and I was kept locked up at the Intelligence Bureau in the Fifield Manor in Los Angeles.

J: You were locked up?

G: Right. I was kept under guard for a couple of weeks.

S: Which is where that Guardian's Office had moved to.

G: Right. The Intelligence Bureau of the G.O. was there. I was picked up by the D/Guardian for Intelligence Dick Weigand.

J: Isn't that falsely (sic) imprisonment. Isn't that illegal?

G: Yeah. It was clearly false imprisonment.

S: At this point do you feel much of what you had done had been illegal? On some level or another?

J: For Scientology.

G: Personally?

S: That you had done personally.

G: I clearly had been involved in some illegalities while... especially while I was on the ship. Smuggling things on and off and...

J: What kind of things? Money, drugs? Weapons?

G: We did move a lot of money around. Briefcases...

J: Go on.

G: Briefcases of money that were brought to the ship. Booze, cigarettes, that sort of stuff taken off the ship and run through Customs. And other things that were just done sort of borderline activities. But I was willing to do those sorts of things at that time and I considered that I was doing ...it was the greatest good for the greatest number.

S: When you were working in Intelligence did you ... were you involved with any "dirty tricks" against other Scientologists or other staff members?

G: I was aware of dirty tricks against staff members and I was aware of the way the Guardian's Office Intelligence Bureau worked to some degree because I had a lot of the policies. I had the Guardian's Office Intelligence hat, the Intelligence

Manual which trained people to lie and steal and create false identities and harrass the enemy.

J: Why would a church need to do that?

G: Well, a church doesn't need to do that, but Scientology's not a church.

J: Why would Scientology feel the need to be involved in that kind of activity?

G: Because Hubbard was afraid and his idea on dealing with enemies was to attack them. One of the ways that he attacked them was through covert means.

J: Why would a man as great as Hubbard who had THE technology to save the world, have to fear anyone?

G: Well, he didn't have the technology to save the world and he simply had fear because he had fear and he was never able to triumph over his fear, so he put his trust in attacking people as opposed to doing the rational things in life and he also had reason to fear because he had falsified his credentials, he had lied about his life and he was afraid of being exposed and he had also lied and cheated for many years. He knew that there were people around who knew what he really was.

S: Now how did you come to find this out?

J: Can I ask one question? Answer that but answer this one first because you've got me really interested. If Scientology could do what it says it could do, would you still be in it? If it had the technology to do what it says, would you still be in anything?

G: In answering that question you'd have to...if you assumed that if it could do what it says it could do it would have a different form from what it is, then the answer might be yes. But both things would have to be true. It would have to deliver and it would have to be different from its present form opposed from the form which I came to know and understand.

J: Thanks. That's what I wanted to know. Go ahead with Spanky. How did you find out this?

S: How did you come to know that in fact Hubbard had fabricated his credentials, had in fact developed this tremendous fear that he had of being found out, had this paranoia?

J: What credentials? What would he do when found out?

G: I guess the process of that discovery began when I first got involved with the Sea Organization. Of course I worked with the man for quite a period of time. I shot gnus with him in the desert after we left the ship. He twice assigned me to the RPF. I talked to many people about him. I read hundreds of thousands of his words. I listened to him and listened to his tapes so I had a great understanding before I ever came to the realization that what I'd been led to understand was false, but I needed that great understanding I think in order to know what the falsities were. But I was, I considered, quite fortunate in that in the beginning of 1980 and we then were in Gilman Hot Springs and there was a threat of a raid and we were required to go through...each person had to go through his...all papers in his area, whatever post he was on, and all personal papers, and destroy anything which showed Hubbard's control of the organization, anything which showed his intent to live at the Gilman Hot Springs' property, anything which showed his control of organization finances.

S: So now in January of '80 isn't that when, as far as the rest of the staff at the other organizations knew, L. Ron Hubbard went off the lines, so to speak, January '80 he was like... Did he in fact go off the line or was it just made to look like he went off the line at that point? Cause if what you're saying, if I'm following you correctly, do you know, there was this perception that he was now gone and had cut ties to the actual on-hands running of the organization.

G: Well, it's...part of that is true. There had been a gradual decrease, I would say, of his hands-on involvement, but even though he left from the location that he was at the beginning of 1980, he continued to run the organization. He just continued to run through a different conduit.

S: Now, so you went through the papers within your own specific area. Was this prior to your being assigned to the biography project?

G: No, this is what the biography project came out of. Because in the process of going through my things I was at that time responsible for the Household Unit at the Gilman Hot Springs property. One of my juniors was responsible for all of L. Ron Hubbard's stuff -- his personal effects which were stored at the Gilman property. She came to me with a box of very old materials, very old papers, and asked if they should be shredded. I looked through this stuff and saw that it all predated Dianetics so thought, it should be no risk whatsoever. It has nothing to do with his running the organization. So, I also saw that it had great historical value. And when we then began to look over inventories, began to go through his stuff we uncovered some 20 boxes of similar material. And I knew that this stuff, could form the basis for a library and was incredibly valuable for its history and just as original documents, and that it would form the basis for a biography. So, it was at that time that I petitioned Hubbard to be able to collect this stuff up to preserve it and to contract with an outside writer to do the biography.

He approved the petition in January '80. And then we communicated another couple of times before I then did not have what was that direct comm line to him, communication line. We could then no longer admit to a communication line to him. It still was there but we could not use it for fear of civil litigants or the government then being able to subpeona him.

S: As he was under a lot of legal threat.

G: Right.

S: Domestically, at that time, right?

G: Right.

J: Why would L. Ron Hubbard be under legal threat?

G: Because he controlled the organization.

J: What's wrong with that?

G: And because the organization was involved in criminal and tortious activities.

S: I think additionally the church had, was also under tremendous legal stress in terms of people who were filing suit against the church now for fraud. There were attempts made to name L. Ron Hubbard in a suit, to actually serve him or subpeona him which is when he sort of "poof."

G: Right.

S: Disappeared.

J: So he disappeared, he ran and hid.

G: Right.

J: So, hiding is pretty down on the tone scale.

S: So I hear, honey.

J: But that's what the great L. Ron Hubbard was doing. You were there and that's what you saw.

G: Yeah. I mean he did hide.

J: I'm not trying -- it's just very difficult, the reason I'm saying this, it's very difficult for somebody who's in Scientology to conceive that the great L. Ron Hubbard whom they've never met, but have only heard these wonderful things about, to even perceive or comprehend that this might have been ... might have occurred with this man. How can this man be human? He's not human. He was L. Ron Hubbard. The reason that we're doing this interview is so that other people can know. It's very easy for a non-Scientologist to understand those things. It's very difficult for a Scientologist because Scientologists don't get the type of information that non-Scientologists get. And yet you were there. You knew him. You worked with him for probably 15 years or so.

G: I was in the Sea Org for 11 years.

S: And Gerry, backing up a bit, you saw him as a fallible human being, am I correct?

G: Yeah.

S: I mean he had had illnesses.

G: Right.

S: A great many illnesses, a few illnesses?

G: Quite a few.

S: I know that he had these horrendous allergies which when we refer to them we would be heavily reprimanded and corrected and told they were not allergies they were sensitivities. (laughs) You know there was a brilliant way of sort of smoothing over things.

G: Right. Right. He continued to wear clothes when he was stark naked. Right.

S: Oh, yes. Yes, of course.

G: And we all did that in our own mind, and we all stopped ourselves from thinking critical thoughts of L. Ron Hubbard. We really didn't do him much of a favor because he really was human in every way.

S: Yes. Do you feel that the mindset of the group of -- all of the adoration that L. Ron Hubbard received, contributed to his delusion? Or do you feel that he imposed the delusion upon the group? Or do you think it's kind of 50/50?

G: There's no doubt that he was in control. And there's ... we did not control L. Ron Hubbard. And although he could have become the effect of his own lust for control, and his own greed and his own avarice, so he created his sycophants. And the effect of... often of what you create may not be that pleasant so he did create his own prison.

S: Ok. So now you contracted with Omar Garrison, am I correct, to do the writing of this book which you were researching?

G: Yeah, beginning in January, I collected up the materials from the Gilman Hot Springs property.

S: Several boxes of materials.

G: Right.

J: This was in '80 or '81?

G: '80, beginning of '80. And then shortly after that I moved them to Los Angeles and I began to add to them. I travelled around, travelled up and down the west coast and I bought collections, other people's collections of Hubbard materials. I interviewed a number of people, his other living relatives.

J: L. Ron Hubbard, Jr.?

G: Yeah.

J: His ex-wife?

S: Sarah Nordstrom. (sic)

G: No. No, I didn't talk to Sara. I talked to Sara after that project was over.

J: His daughter Alexis?

G: I spoke to her as well some time later. I spoke to his living aunt, living uncle.

J: That was his...

G: Yeah. It was good. Good. And they really saw him for what he was, as well. They knew him in a real manner. They knew that he was a big storyteller.

S: Now, at this time you're going around talking to these people and I presume verifying his various degrees and his education credentials, etc. And you're starting to see holes in these stories, right? At this point, it's still 1980, are you going, whoa. This guy's full of shit. Or are you going, oh, something's wrong here? Or -- I mean I know so many people within the church, despite the fact that these claims and the intros to these books and L. Ron Hubbard's past, you know, and he's been killed three times and come back to life and born of a Virgin Mother or whatever the hell it is, they consider that these things are factual. He was a war hero. He did have these degrees. And that the government with a conspiracy against Scientology has gone in an altered all this information. Do you know what I mean? It's like, to continue their own delusion of what was what.

Now, at this point in 1980 were you still buying the story or would you concerned, you know, in terms of the validity of any of that?

G: There were a couple of steps in the process. Initially, I just collected the documents. Then I began to see discrepancies. And although I saw discrepancies I continued to believe that what he was writing about himself and what he had been saying was the truth. And that the discrepancies could be explained in some manner. Additionally, if there are only a couple of discrepancies and they're minor discrepancies, who cares. But, through the process of the accumulation of the biographic archive, in my study of them, I began to see that it wasn't just a few isolated instances but, rather, that he had -- that lying had been his pattern and that that's what was true about him. What was true about him was that he was a liar and that he appeared to think that he could lie with impunity.

J: What lies did you see specifically that you could enumerate a few.

G: The ones which were significant to me were the ones I think which had been used to draw me into the organization and which had kept me in the organization for all that time, and they were not just used for that but used to create a mystic about him which you could not penetrate, could not question. It was significant ones. If he had been crippled and blinded during the 2nd World War. That he had cured himself with Dianetics. That it was a matter of medical record that he'd twice been pronounced dead. That he was a nuclear physicist. Those, to me, significant representations, I was able to show in his own documents, not the government's documents, but documents which he maintained in his own archive, that they were false.

J: Gerry, how did you feel when this came to light? I mean, you're a loyal Sea Org member. You have worked for the last ten years as a Sea Org member working night and day very hard, giving your all, complete dedication, sometimes 16, 18, 20 hours a day. How did you feel when you began to find these things out and they began to dawn on you that this man was a bigger liar than he was a purveyor a truth? This must have been the devastating thing to go through. You were loyal. There was probably no person any more loyal than you. You were one of the loyal Sea Org members.

G: Well, it was initially like I say, I just noted the discrepancies and carried on with my work. There came a time when my mind began to open. I began to see, and I began to question. That period of time was also a period of great confusion. There was also a period of time of some loneliness because there really was no one to talk to because I couldn't go to someone with a critical thought. I could not -- you could not talk and say the things that I had to say inside the organization.

Then there came a period of time in the fall of 1980. I actually had tried a couple of times. I'd gone to Laurel with some discrepancies, cause Laurel had been his public relations officer for many years. She knew the story. And I was saying, "Laurel, this isn't true. We can't say that." Well she got really angry at me and silenced me. So I learned to not say anything.

But there were a couple of points. One of them was contracting with Omar Garrison. And Garrison had a couple of very pro-Scientology books prior to my coming on the scene although he was not a Scientologist..

S: He was a huge ally of the church, in fact ...

G: He was a huge ally so again even with Garrison I couldn't just say, "Hey, Omar, you know, check this out. It's bullshit!"

S: I've connected the dots and it's scary.

G: Right. Now, it was a gradual thing with him, too. I would give him material and then we'd talk about it. Gradually I began to see that Omar understood, and Omar was an ally of mine, so we began to be able to talk freely. And that was another key to my getting out of the organization was... spending a lot of time with him, with his wife, travelling around the country in different situations outside the organization. And then going back into the organization and having that comparison all the time where you do, having the knowledge that I had, going into the organization and seeing the craziness inside and then going out of the organization and seeing that the representations the organization was making about the outside was another aspect of the big lie which was being run on us.

But, toward the end of my existence inside the organization, and also as I learned more I became, I guess, braver and braver and braver. You know, willing to stand up -- it didn't matter any more. You know, you want to kick me out of this organization? See you later.

But I was still there, still dedicated, so I developed something of a cause during my last few months inside the organization of attempting to get the organization -- and, of course, I knew it would get to Hubbard and it was sort of a challenge to him, but initially to get the organization to change what it was saying.

S: I remember that part very well.

G: And I critiqued a number of the dust jacket material and the "About the Author" sections of the various books, and we'd go through them and line by line say, "This isn't true, this isn't true." Here are the facts." This we don't know. We can't document that. It sounds like bullshit to me. And so, I did that with a number of pieces. And I think it actually had a good effect up to a certain point, because they did actually change them and tone down some of the hyperbole.

S: Now, didn't at that point you also feel -- this is per my recollection cause I was a PR at that time and worked pretty close with Laurel and -- didn't you feel that despite the fabrications and despite the inconsistencies that there was still value to Hubbard? I think I recalled something about, "Gerry said that we could still do a biography and just make it truthful and still..." -- because LRH had contributed so much, just do a truthful thing, and his contributions would stand on their own. You didn't need all this fabrication. And you sort of had platformed this campaign, right, where you went over like a pregnant polevaulter...

G: Right.

S: ...as I recall.

G: It really, I think, ran his accomplishments and the technology will have to stand on its own. If it's going to stand, it has to stand on its own. We can't hold it up with lies. That's the way I still feel about it and I think it has fallen on its own. I don't think that it's workable and I think that it's an enforced technology. But that's sometime later in my development.

S: Now, by this time, you and Terry were no longer married and you had remarried to Joyce Brown.

G: Right.

S: Was your relationship with your wife at this time, where you were very vulnerable and feeling alone, was that any solace to you?

G: Yeah. See, she came along in...

S: Another catch, dude. I mean she was such a doll-baby. She is such a doll-baby.

G: Yeah, she's a sweetheart. Initially, I'm working away on the biography project and she's up there in SMI, Scientology Missions International. And we connect. And you know what a Sea Org romance is like, you know. "Hey, gotta a weekend free, let's drive down to Tijuana and get married." You know it's that kind of a thing. I think I drove her down one week and got her a divorce and the next week got her -- married her, sort of.

But she was in much the same situation as I was, in, that, if you're free to talk to anyone inside the organization then, for one thing, the organization wouldn't be Scientology -- if people were free to talk it wouldn't be Scientology because that's the essence of Scientology is its lack of freedom. We at one point came to this realization that we could talk. So, just toward the end of our being inside the organization we formed something of a conspiracy of two. And so, knowing what we knew, and once I knew that I could talk to her and what she knew is she could talk to me, and we formed this little conspiracy...

J: It really wasn't a conspiracy though. It was open, honest communication.

S: Between a husband and wife.

G: Right, open and honest between us, but ....

S: But within the organization it would have been a conspiracy.

G: ...but conspiring to not let the organization know because they say you must talk open and freely to this sec checker but you can't talk open and freely to your spouse.

S: What?

G: That's the organizational paradonn. So we violated that because when it came to sec checking it was -- I mean she had to go through a sec check toward the end of our Sea Org experience and by that time, I mean, once you know that the whole thing is a scam, anybody can con a sec checker, because you have a certain altitude. Go ahead and ask a question. I don't care.

S: That's right.

G: You know, it doesn't read. There's no more belief in that meter. It's just a pack of garbage.

J: Are you saying that the E-Meter is not 100% effective?

G: The E-meter is at best a worthless, anti-religious artifact.

J: Thank you.

S: Don't sugarcoat it honey, give it to us straight, ok? I mean, you know, enough of this pussyfooting around stuff.

J: You feel pretty strongly about that, don't you Jerry?

S: Yeah.

G: No, it's ... irrelevant. It has no meaning. It has no value whatsoever.

J: I think the value that it has is the value that the person holding the cans has...

S: Infuses into it ...

J: Yeah, places upon it because of what he's been told or shown.

G: That's not the value. There may be some value in answering questions. There may be some value of looking into one's mind. And --

J: I agree with what you're saying. I don't disag.. I'm saying the value that it has to the organization, not to the person.

G: Oh, yes. It has the same kind of value that thumbscrews had in another era.

J: Yeah.

S: Now, Gerry, when you had all those documents and you had these boxes, did you not come across a lot of evidence in terms of not only inconsistencies in the fabrications that L. Ron Hubbard had presented to Scientology as a whole, but also things that made his past actually questionable in terms of maybe alcoholism or drug use or things that you came across that not only show him as someone who's made up these things, but showed a quite -- A man who was the antithesis of what had been presented.

G: Yeah. Yeah.

S: Tell us about that.

G: I began to see that his drug of choice in his later years were steroids. And he dosed himself with massive doses of testosterone and I remain convinced that that is what he used to keep an edge on his belligerence.

S: Interesting.

J: How did you come to find that out?

G: From his own writings.

J: Is there any way that we could look at those writings?

G: I don't know of any way of getting to them at this time.

J: Why? I know it's a simple question, but why?

G: Because the organization will not disgorge the true information which it has on Hubbard.

S: Do you think they've kept that information or do you think they've destroyed the information?

G: Both. So that there is certain aspects of what they've done and the criminal activity that they're involved in which they maintain and there're certain aspects of it which they destroy.

J: When you say the criminal activity they're involved in, do you think that the majority of Scientologists have any idea that that's going on?

S: The current Scientologists?

J: Yeah.

G: No.

S: Of course not.

J: Then?

G: When you talk about the majority -- the people at the top know.

J: Like David Miscavige and Norman Starkey and...

G: Yeah, and Gene Ingram? Sure. The people who control Scientology. And the lawyers. Oh, yeah, the Earle Cooleys of the world? Sure. They absolutely know that they're involved in criminal activity designed to destroy civil rights of the members of the organization and the lives of anyone they perceive as enemies.

J: Can you give me two examples of civil rights that Scientology has violated?

G: Freedom of association, freedom of speech, freedom of religion.

S: Just to name a few, honey.

J: Ok. Yeah. I mean, thanks because...

S: Gerry, keep going.

J: That sort of thing I think is important. Most people don't realize that that's what's going on. Most people have no idea that that's going on. Did you feel like you were manipulated while you were in there?

G: While I was in there I don't recall that the subject of manipulation crossed my mind. I don't think I could have allowed myself to think that I was being manipulated. But...

J: Did you ever feel that way?

G: I felt absolutely controlled. But my understanding of the manipulation, the coercion, comes later.

J: After one pulls back and views it from the outside.

G: Yeah, well, I mean, technically I was inside but I had really begun to deprogram myself and so...

J: Did you tie yourself up? I mean we all know about deprogrammings. You get tied up, and ...

S: ... sexually molest yourself.

J: Did you tie yourself up and sexually molest yourself?

G: Oh, I mean, deprogramming has to do with that subject of manipulation. While you're programmed you don't know that you are being manipulated. When you're deprogrammed you realize that you have been manipulated.

J: So in order to be deprogrammed, one has to be programmed.

G: Yeah.

J: Deprogramming doesn't work on somebody who hasn't been programmed.

G: I would think that's true.

J: Yeah. I would think so too. I would think so too.

G: Accepting the word and the definition.

J: When did you leave?

G: December '81.

J: Why?

G: It was time to go. (laughter)

J: Would you tell me a little bit more about that. I mean, I believe what you're saying but not everybody knows the Gerry Armstrong story. And I think a lot of people might be most interested.

G: Ok. Well, I came to the point I guess a couple of weeks prior to that and I had been very vocal on the subject of the lies, Hubbard's lies, the organization's lies and the organization's activities. And my vocalness had come to the attention of Norman Starkey. Norman Starkey at that time was on a mission operated by David Miscavige, the purpose of which was to take care of Hubbard's legal problems so that he could come out of hiding. And Starkey one day came into my area, Hubbard archives area, and we had a conversation. And he accused me of saying things about Hubbard which were untrue. And one of the things he said was, Hubbard -- he wanted, Starkey wanted, to charge the PRs through the ages with creating the lies which I have documented.

S: Well... now hadn't that happened to a large extent? Did Lizzie and Laurel -- for a period of time, I don't know what happened to the whole thing, but they took the fall that they had made it up and they had written these falsehoods about L. Ron Hubbard.

G: But they weren't around in 1950 and 1952 and 1965...

S: No, but they were the ones who -- they had written down the biographical information on L. Ron Hubbard, how it was dictated to them by L. Ron Hubbard, per my recollection.

G: But they were not there. If you look at -- what's the book on the atom bomb, the nuclear physicist's book -- "All About Radiation". If you look at that book and if you look at the bulletins that were written in that era it says, L. Ron Hubbard, a nuclear physicist. Lizzie wasn't there. Laurel wasn't there.

S: That's true. That's so true.

G: How can you say -- I mean, it's like one thing to make those people scape goats, but those people weren't there in '56. Laurel wasn't old enough to be there in '56. She was in our generation. I mean, you know, we're the 60's. We're the baby boomers.

S: Lizzie certainly wasn't there, either.

G: Anyway, what I did was show Starkey in Hubbard's handwriting where he had called himself a nuclear physicist and Starkey just went silent and he stormed out. And a short time later I was called down to Gilman Hot Springs.

J: Do you think he had a major ARC break?

G: No, I think that he recognized that everything that he had put his life into for so many years and had done so many rotten things and attacked so many people in defense of. That he saw that that hung in the balance and he had to go one way or another. So he chose to close his mind. And he wrote to the ... one of the executives of La Quinta ... Gilman Hot Springs and requested that I be sec checked.

J: This is the Golden Ere Studios, or Golden Era Studios.

G: Right, but at that time -- I'm not sure what it is now.

S: No, cause it's at Gilman's.

G: CMO headquarters...

S: This is at La Quinta.

G: No, this is Gilman.

S: Oh, this is Gilman, ok.

G: Yeah, this is -- CMO headquarters, in any case. And so I went -- I was called to Gilman and I spoke to Cirrus Slepp. And she asked me about -- she actually showed me Starkey's report on me. And I said that I -- you know I was quite open with her.

S: Now Starkey reported that you had fabricated this information?

G: No, Starkey reported that I was criticizing Hubbard and he wanted to find out what I had been saying and what documents I had been giving to Omar Garrison because I'm working closely with Garrison, and if I'm giving Garrison documents showing that L. Ron Hubbard claimed to be a nuclear physicist and L. Ron Hubbard lied about being a nuclear physicist and Starkey knew about many more lies...

J: The cat would be out of the bag.

G: Right. So he wanted -- they wanted to keep a lid on it. Cause his job, of course, is to continue the myth of L. Ron Hubbard. Starkey's put a whole life into doing that. He's dedicated to that illusion.

J: Starkey got into Scientology in the 60's in South Africa. So he's been in a long time, probably 30 years.

G: Yeah

J: That's a long time to put in. It's at that point 20 years.

G: Right. And he was in a position of power. And he liked those positions of power. And this is, of course, some kind of a threat. I mean, here's just some guy down there making all kinds of noise and essentially calling L. Ron Hubbard a liar.

J: You know, one of things that always... I'd always thought about in Scientology was the is-ness, as-is-ness, alter-is-ness and not-is-ness. It says in order for something to survive or continue there has to be a lie in it. And the question that always came to my mind -- the first question that always came to my mind is, for Scientology to continue it must have a lie because it says so right here. In order for anything to continue it has to have a lie. So I always wondered what the lie in Scientology was.

G: The lie is that is Hubbard's philosophy. Hubbard's philosophy is flawed. It is a corrupt, dishonest philosophy. And he was a corrupt and dishonest man.

J: You must hate his guts. You must hate his guts for a person who's ... for a person who's been loyal...

G: That which will survive is that which can never be altered. That which is altered and that which is hence unreal, that which is a lie, will not persist. Now you can try and Hubbard can try but you will not get lies to persist.

J: That's true because there's always some truth under there and they'll pull the truth out and it's fixed full of lies.

G: The truth will be there no matter what you do with it.

J: We need to go eat lunch, or dinner?

G: Oh, ok.

J: So I think that you have an appointment.

G: Yeah.

J: Before we do that, let me ask you two quick questions.

G: Ok.

J: You left in '81.

G: Right.

J: You were sued in '84.

G: '82.

J: '82.

S: Jerry?

J: It went to trial in '84.

G: Right.

S: We should just pick this up, because...

J: We will.

S: Ok, I just wanted ...

J: We will. But, I just want to get this on here. They lost the suit against you.

G: Right.

J: In '86.

S: Big time.

J: In '86. They sued you in '82. Went to trial in '84. In '86 they settled out of court with you.

G: Right.

J: For hundreds of thousands of dollars, if my sources are correct, and you don't need to verify ... or hints at all, if you can let us -- if you want to, it's fine. But there's no reason to give anything. If my sources have been correct you got $800,000. You -- Scientology paid you $800,000 because you knew the truth about L. Ron Hubbard. You knew the truth. And you have been harrassed and you've followed. You've been lied about. You've had people watch you 24 hours a day for weeks on end. You've had to go through extreme mental pressure today, yesterday, even. Gene Ingram says things to you like, "Gosh, Gerry, you look like you have AIDS," when in fact you're a very healthy person and you're a marathon runner. And it's...

G: Right.

J: Settlement aside, but, these other things are correct.

G: Right.

J: These guys are still harrassing you.

G: Right.

J: And you were a loyal, loyal, Sea Org member. Never in your wildest dreams did you think, when you got into Scientology, and you dedicated your life to this, if ever they had put you in this position.

G: Right.

J: Thanks. Can we continue this?

G: Yeah.

J: Thanks.

G: Thank you.

[RESUME TAPING]

S: Hi Gerry, you left in '81.

G: Right, December '81.

S: Can you tell me what led up to your departure from Scientology?

G: Sure. I had come to the conclusion at the end of '81 that the organization was not going to reform its ways, it was not going to correct the lies L. Ron Hubbard had told about himself. L. Ron Hubbard was not going to correct the lies he'd been telling about himself. The organization was not going to change its -- what I considered -- criminal and anti-social behavior. And I knew that my days were numbered, that I could not continue to be in the organization taking the stand that I had been taking, being vocal on the subject of Hubbard's lies. So I really was faced with only one choice to make and that was to leave. So, I carefully, cautiously, and over a period of a week or ten days removed my few belongings and my wife's few belongings out of the building and we cleaned our living space before we left. Left the few pieces of Sea Org uniform that I had, and we drove away.

S: I see. Now didn't you at this time do something rather brazen which is like -- didn't you keep some of the documentation for some period of time and send copies to the church or vice versa kept copies and sent stuff back to the church?

G: No.

S: No?

G: No, I didn't. I worked very diligently and my wife Joyce -- and Jocyln -- worked very diligently for the last couple of weeks copying whatever we could copy of the documents which I had in archives, many of which I had already copied and already provided to Omar Garrison, but I was dedicated to Garrison. I sensed, or knew, that whoever took over the biography project after I left, and I assumed that it was going to be Vaughn Young, because he'd been working with me on the project at that time and it was my expectation that he was going to take over the project, that the organization once I left would not allow Garrison the access to the materials that I had so my dedication to him, my dedication to the biography project and my dedication to the attempt to bring to light the truth brought me to copy everything I could, and what I couldn't copy and all the copies that I had remaining, I took to Garrison at the end. So I provided them to Garrison and then Joyce and I drove up to Canada. And at that time we were completely documentless. I did not have any documents. Didn't do anything with the documents for a period of time.

There came a time some months later because I began to work for Garrison outside the organization that I, at his request, copied a lot of the copies which I had given to him because he wanted to set up a separate archives because he felt that the organization was going to burglarize his place and steal the materials that I had provided to him.

So, that second set of materials was what I then provided to Mike Flynn, or sent to Mike Flynn, after I knew that the war with the organization had started, in the spring of 1982.

So, the organization's claim that I stole all these documents -- that's simply not true. I was under contract to provide the documents that I could to Garrison and I performed pursuant to that contract. It was only as a result of the organization's declaring me an enemy -- I knew that I was then fair game. I knew that the battle had been engaged. And I took it as what was the only sane thing to do. Anticipating a legal battle. In fact I was told to get a lawyer. I did.

I got Mike Flynn.

S: Okay. And so, then, how did it progress from that point, the legal battle?

G: Through the spring of '80 -- late spring of '82 and into the summer I provided sets of documents as I was able to get them from Garrison and copy them. I sent them to Mike Flynn. Some of the documents that I sent were some of the originals which I had provided to Garrison.

Some of the originals I provided to Garrison because he needed, or, we felt, that it was very good to have originals because he was considering including copies, photographs of the original documents in the biography, some of the things which were in Hubbard's handwriting and on the original paper would have been great included in the biography. So some of them he had for that reason. Some of them he had because I just didn't have time to copy them. It was our intention that Garrison would copy them and he'd provide -- give the originals back to the organization.

But some of the documents were originals, but most of them were copies which I provided to Flynn.

S: Now up to this point Mr. Garrison had been, as you'd stated before, an ally of the church. And Did he also -- was he becoming disillusioned with all this newly discovered information?

G: I think he was -- he wasn't probably as illusioned as I thought he was. He really was an intelligent man living on the outside of Scientology, and had provided as a writer a service for them in doing the books that he'd done. But he thought his own thoughts and he was independent of Scientology. And he is a -- he's a fighter in his own way, so he had already had his own battles with Scientology just to arrive at the products that he'd done.

So it came to him as really no surprise. And It was a surprise to me that it was no surprise to him. He was pretty real about the whole thing. But, he did begin to understand that he had possession of very sensitive documents and that the organization would then consider him, if not an enemy, certainly a major security threat in that he possessed these very sensitive documents.

S: Okay. So, you went to court. The Church filed suit against you, am I correct?

G: Yeah. August '82.

S: You countersued.

G: Right.

S: This was a big suit. I mean this was well covered in the LA Times. This was like a very big, visible suit. Can you tell me how that progressed and what the outcome was? And who all was involved?

G: Sure. They sued me in August of 1982 seeking to recover the documents which I had sent to Mike Flynn, and seeking damages. And the causes of action were conversion. They considered that my providing -- initially they claimed that my providing the documents to Omar Garrison was conversion because they did not know at that point that I had retained a copy of the contract to show that Garrison legitimately had the documents and that I legitimately had given Garrison the documents.

I defended the suit initially by stating that the documents were not the organization's documents but were L. Ron Hubbard's documents and L. Ron Hubbard should bring the lawsuit but L. Ron Hubbard would not come out of hiding, and he was afraid to come into court. So then Mary Sue Hubbard intervened on his behalf. And she claimed a proprietary interest in the documents.

That was the initial stage of the lawsuit. The judge in Superior Court -- I think it was Judge Coale, then ordered the documents which I had provided to Mike Flynn and to my other lawyers Contos and Bunch in Woodland Hills -- he ordered those documents be delivered to the court and they stayed within the possession of the court through the lawsuit, through the pendency of the lawsuit up until the time of settlement which was December 1986.

So, they initially sued me, and then I filed a counterclaim for the intentional infliction of emotional distress and for fraud. That then, the two cases were bifurcated -- they were split apart so that initially all that got tried at my trial, at the Breckenridge trial in the spring of 1984 was their lawsuit against me. And out of that came the famous Breckenridge decision in which he found that because of my knowledge of fair game, of organization intelligence operations and of the fraud of L. Ron Hubbard that I was justified in going to Garrison, getting the documents that I knew about and sending them to my lawyer. So ... That was the result of that trial.

My case against them...

S: Was that a jury trial?

G: No, judge trial. My case against them did not go to trial because that was settled. It was scheduled to go to trial. At one time in December of '86, then in early 1987. And in large part because it was scheduled to go to trial the organization settled it.

S: Now I know a lot of other executives at the time sort of -- I wouldn't say rallied around you, but, but, came to witness against the Church during this time.

G: Right.

S: And that was a big thing at the time, right, because these were some of the senior most executives of the church.

G: Uh huh. Laurel Sullivan who'd been Hubbard's public relations officer whose history went back with him through the Sea Org. Bill -- sorry, Bill Franks wasn't there. Homer Schomer. Eddie Walters.

S: Kima, didn't Kima..

G: Kima testified. Nancy Dincalci. So a number of them were, really my friends. People who I'd known inside the organization and outside the organization. A group of friends who were quite close to me and who had the courage to come forward and testify.

S: That's great. Now, your suit settled and -- bring us up to date to this point as well as how you feel retrospectively about the whole situation, what, you know, what would like to do now, are you under a gag order presently? Are you not?

G: I'll give you the history.

S: Ok.

G: So in, From 1984 after the Breckenridge decision there were a series of events -- operations that the organization mounted against me to compromise me, to set me up, to get me charged with false criminal charges, any number of things. The onslaught...

S: 1984, that was during the trial -- during your case or prior to your case or after your case?

G: They began before -- in 1982 they had PIs on me, I was assaulted, I was driven into. They tried to get me in a highway accident. They harrassed me day and night for well over a month. Then as a result of the court's comment about this kind of activity, they backed off. They kept up the legal onslaught and they deposed me in any number of cases and within my own case. And they ran operations against me. You okay?

S: Yeah.

G: But it was really after my trial in 1984 when they escalated the war. They sent around my friend Dan Sherman. You may know him. And I liked Dan. We were really close. And we hung out a lot. But the whole thing was an operation to get Dan close to me so that I could be set up. And what they tried to do through Dan was to convey to me the idea that there was a group of people inside the organization who wanted to reform it, who wanted to get rid of the criminal element at the top of the organization and have it revert to its pre-Guardian's Office, pre-criminal days. Get rid of the criminality.

S: Now, so at this point, were you supportive of that effort, on Danny's part?

G: Well, at first all it was was him telling me that there was this group of people and then he would send me messages from them. And then gradually I built up a relationship with them. These people claimed to be a core group of 35 people inside the organization who were working covertly because of their fear that should it become known that they wanted to reform the organization they said they were afraid for their lives.

S: So at this point despite everything you knew about Hubbard you must have had some faith in the technology of Scientology. Or am I wrong? Am I mistaken? I mean if you thought well we can restore this organization to its original intention to be, you know, this may be humanitarian group or maybe this ...

GA: No. No, it's more like downstairs here there could be any number of Catholics, Protestants, Jews or whatever, but I support the cause that they're involved in. It's that sort of way. I did not consider myself a Scientologist, but, if Scientologists want to continue to be Scientologists and at the same time clean up the criminal element in the organization I can support that without myself being a Scientologist. So I supported their intention of reforming the organization. And I didn't know who they were. I'd never spoken to them so it was sort of a support from a distance -- there was nothing to do. He was relaying this information to me.

Then they initiated a dialogue with me. They wanted to communicate with me. And they would send messages via Dan, the message that they really respected me for what I did, the integrity that I showed during the trial, and so on. I got a phone call one night from one of these guys just after the trial and just the day before I was to fly to London to testify in the child custody case, the one that Jolly West quoted from today, the Latey decision came out of that trial. I went over there and testified. Well the night before I received a telephone call from one of these people claiming to be one of the 35 Loyalists. And he said, "We can get your pc folders. We know you want your pc folders. We can get them for you." "Oh, ok. What do I have to do?" "Oh, well you'll have to drive to a certain place in Los Angeles..."

S: Griffith Park.

G: No, this was a different -- I never went, I never bit. I never rose to the bait on that occasion. I said, "Well, to me this could be construed as accepting stolen property and it also could be an attempt to get ... to stop me, because of the times that were involved, to stop me from flying to London, cause they did not want me testifying in the trial. I said, "As much as I'd like the pc folders I can't do it." In any case I flew to London and testified. There, in London, I was harrassed at Heathrow Airport by private investigators. And they, in fact, wrote sworn affidavits that I was observed passing sealed documents to a bearded Arab in the Old Cock Tavern, pardon me, on a particular Tuesday night. I had in fact been at the Old Cock Tavern for lunch on the day previous but I was not there now on a Tuesday night. And the whole thing was concocted, but that's true to form of Scientology, you know, manufacture evidence. So they ... a Scientology operative will swear to anything. The fact that it's a sworn affidavit doesn't mean anything. But it was just another piece of the ongoing operation to compromise and set me up.

I returned to the U.S. and then I was contacted by two people. One of them was David Kluge, who I only knew at that time as Joey. And the other one was Mike Rinder, who I'd known from inside the organization in the Sea Org. And both of them -- and all of this was video taped, illegally, covertly, by Gene Ingram. And I didn't know at the time and I talked to them like I ...

S: This was the meeting in the park.

G: Right.

S: The famous meeting in the park.

G: Right. And there were a series of meetings in the park but I talked to them like I talk to you and I -- you know my language was atrocious. I made bad jokes. Just rotten. I had a foul mouth at the time. But I was also -- you know, I mean, I could pick up that there was something weird going on because what they would tell me off camera seemed to be so different from the questions that they're now we're sitting on a park bench and they're talking to me. And I'm ... was completely open about the whole thing, but I also knew that there was something weird about it so a lot of what I'm saying on the video tape reflects that aspect of the thoughts that are going through my mind about how strange this is.

But there are some really funny things that occurred. If you've never seen the videos, they're very, very funny.

S: You know, I on't know, Gerry, that the videos were ever shown. What I do know is that a transcript of these meetings was published in Freedom News Journal.

G: Right. A part, part of it.

S: In part. But it was very interestingly written because it would say -- it would have a quote and it might be a sentence, and then it would say, "And then he said..." and the rest was all just like editorialized, "And then he said this and this and de-de-de-de-de-de-de-de-de." And then there'll be another quote. And I thought, "Well, if he said these things why didn't you just publish the dialogue? Why are you giving me your interpretation of what he actually said?"

J: True to form.

S: Of course. It amused me. I was still involved in Scientology. Still a believer. I saw this. I have to tell you, this shook me, cause I went, "This is nuts." Who could ever believe this article? And I was truly, truly committed to the organization at this point. But it really made me go, "Please, this so discredits them. Why would they do this this way?"

G: When they first broke the videos in 1985 up in the Christofferson trial, before they were shown to the jury the judge viewed the first two videos. And he viewed them in his chambers, then he came back out and he said, "These are very damaging, damaging to the church." Right. And they polled the jury after the trial. And they said that the video tapes of me only proved one thing. And that was that fair game was alive and well in 1985.

So, the Scientologists are so blinded. Here's the way I think it went down. People are reporting to Hubbard through this time that they have an intelligence connection to Armstrong. And Hubbard hates Armstrong, you know, cause I've been saying all these things. And they've been telling him that I took the documents.

S: Pull back the curtain.

G: I mean, out of what I did came the Breckenridge decision which stated, "This guy is a paranoid, schizophrenic." I mean just the worst thing that he ever wanted to hear. But true.

But they -- the organization could never tell Hubbard the truth. And Hubbard could never hear the truth, so there's a perfect situation there for Hubbard to get partial truth and it always happened inside the organization, then he would issue an order. He would issue an order, in this case, like, "Get that into evidence. That'll destroy Armstrong." Because they're telling him, "We've got video tapes of Armstrong saying 'this,' and of course, they take one line out of context." But that's the big win that they want to convey uplines to Hubbard.

And of course, Hubbard doesn't get the whole picture, but now he has issued an order. And now they have to jump through the hoops to get those video tapes -- illegally taken, and the judge stated up in Oregon, these things are illegal. But they fought to get them in. And after the judge said they're damaging against the church, does anyone care? I had to go through the incredible embarrassment of my foul mouth, and I didn't know, you know, did I pick my nose, you know -- how did I? You know there's four hours of video tape I was just -- I was a total jerk.

S: (Laughter)

G: But I understood after a while I really -- it was terrible to me. Up in the Christofferson trial. When I knew that my friend, Dan Sherman had set me up, that the whole thing was a set-up, that they'd video-taped all of this stuff, the betrayal was so awful to me. I was suicidal for just days. I walked out of the courtroom. The judge got rid of the jury, sent everyone home, and he was busy watching these things in there. And I'm sitting, I'm alone out there in the courtroom for an hour and then someone, one of the Scinos' lawyers walked in and made some complaint about me even staying in the courtroom and so I walked outside.

And we were on the third floor of the courthouse. And there was, you know, the stairs came up like this onto the third floor and then they went around like that so there were two places where you could look down three floors onto the marble floor below. It looked just hard enough that it would do the job, just smack! I really considered it for a long time. I walked over to the railing of one of these areas and I looked down, and I was just contemplating just ending it right there. Then I realized that down below was a set of pay phones and that, you know, someone crossed over there to the payphone and I realized, you know, here I go to end it all and I take some innocent guy out walking to the payphones, so I couldn't do that so I walked over to the other one, thinking well, you know, here's an opportunity. And there was a bank of Coke machines. And so, you know, just out to save some other poor guy, I didn't take my own life at the time.

But it was horrible. I just ... I came just so close. And I... My heart -- there was incredible pain. One night I just couldn't sleep and there was this pain and I just couldn't breathe. Awful! It went on for some days over a weekend and then into the next week. I think they had me on the stand for 10 days, 7 or 8 of which were cross-examination with the great Earle the pearl Cooley. Anyway ...

So that's what happened in 1985 and they just continued after that. Then they culled my pc folders. And they sent all the most scurrilous stuff out of my pc folders. And they put that ... filed the stuff in my case in LA Superior Court.

S: Well, you had to have of known that that was going to happen.

G: Well, I mean, you get a sense but you really can't believe it until you see it. And then you can't believe the twists that they and their lawyers put on it. You know and there was this dream I had. I had a dream up in Portland in '85 and I sent it... I've had very few memorable dreams in my life and only one or two of them have I ever written down. And this one was so vivid and so memorable that I wrote it down. And I wrote it, I think, very concisely. It was some of my very best literature because it is really tight and really good. It's also really foul. The language and the concepts are just grotesque. But it was a great dream. And I sent it to Dan Sherman because he's my literary buddy. It ends up the Scinos get it and they got that! And they want to put that into evidence in the ... the Christofferson trial!

That one, that one followed me this last year it showed up in Johannesburg in South Africa. The organization provided it to their lawyers over there to attack me with. A dream! And they twisted that -- that the fact that I had a dream was the proof of what a perverse, distorted guy I was. Anyway...

So, there was a series of things. When I first arrived in Boston, in September of '85, well October '85, they brought criminal, they attempted to bring criminal charges against me with the FBI for impersonating an FBI officer. Five times they brought either flat out criminal, or quasi-criminal contempt charges against me. And they tried the same thing in Marin County.

S: Gerry, let me stop you here for a minute. What motivates you. I mean, why on earth wouldn't you say, "I did this. I messed up. I made a wrong choice. I'm just going to go away now. And have my life and just ... you know, I have my wife and I have our birds or..." whatever you guys had at the time. I don't remember. I used to get Christmas cards from you guys -- I think you had birds or cats or something.

G: Yeah! We had birds. That little guy could talk.

S: Nicky?

G: Mikey.

S: Mikey.

G: Right!

S: That's right.

G: Anyway, there was a period of time, December '86. It was the time of the settlement. And we'll get back to the settlement in a minute.

I felt that I really could get on with my life. And I could do a number of other things. I began to, I mean I'd always written, but I wrote seriously. I drew seriously. I spent a lot of time doing my things. I had my own life. And I maintained communication with my friends you know, who I did not disconnect as a result of the settlement. The organization may have felt that I should have or had to or that I was contracted to but I didn't do that. But I really had my own life and I wasn't involved in anyone's litigation. And I didn't have to do anything about them for a period of time.

But the organization couldn't quit. They couldn't let the Breckenridge decision stand. They couldn't let my image stand, whatever I represented to them so they continued their attack. They continued in a false -- what they call a Dead Agent pack that they put out against Bent Corydon in 1987. They did it in the Russell Miller case, in London in 1987. They filed 8 absolutely false, scurrilous affidavits regarding me, specific to me in that case.

S: And this was post-settlement agreement.

G: Post-settlement agreement. Gene Ingram provided an edited version of the video tapes -- the illegal video tapes to the London Sunday Times.

S: Now let me ask you something? In this settlement agreement, does it clearly state that this was not allowed? In the settlement agreement? I mean, were they thus in violation of the settlement agreement?

G: In my opinion, yes! Because the settlement agreement, unless it worked two ways, didn't work at all. But if it was only one-way, then they relieved me of any duty to perform by their doing that. In other words, they cannot -- if the settlement agreement is only a lop-sided, one-sided settlement agreement, that's fine! I honor it and I'm silent. And I don't do anything to violate it. Then everything works fine as long as they don't. But as soon as they, in a new, as they would say, unit of time do something, I clearly have the constitutional right to respond and speak out. They waived the right. They had to remain silent whether it said they had to remain silent or not. Additionally --

S: Did it say? That they did? I mean, was it one of those agreements that Okay, we're just going to both let by-gones be by-gones?

G: That's exactly the words in it, yes! Anyone would interpret it that way. And anyone did. But they interpret it by saying --

S: You should let bygones be bygones and get over it but they didn't have to.

G: Not only that! That they have a right to say whatever they want and I must remain silent even if they can say that I was an ax murderer. And I must remain silent? It doesn't work. But not only that, I realized that my silence was in fact an obstruction of justice. Because all of those people who depended on my testimony, and I have great testimony regarding the fraud of Scientology, was vital to anyone who'd been defrauded by Scientology. So I felt that I really have a right and a duty now to stand up to the organization. I did not --

S: So you were feeling like you were getting over it and you wanted to leave it alone and you wanted to get ahold of your life, for a period of time until they began to lash out at you, at which point you said, "Hey, I don't need to lay down, for you to run over me."

G: Well, there was a series of -- even though they published the Corydon Dead Agent pack, even though they published the material in the Russell Miller case in 1987, shortly after the settlement agreement, I didn't do anything. And I didn't do anything until I got a series of telephone calls from Larry Heller, organization attorney threatening me with law -- with being sued if I were to even testify pursuant to a subpoena. So I knew at this point, "This has gone too far." And what happened was I was subpoena'd to testify in a deposition in the Bent Corydon case. Toby Plevin subpoenaed me. Now I had maintained some communication with Bent because he is my friend. I had not assisted him in any way in his litigation because I had agreed not to do that but I knew that if he subpoenaed me, that that was senior to whatever settlement agreement existed.

Another aspect of the settlement agreement that you should know, was that I was told before signing it by my lawyer, Mike Flynn, that it was "not worth the paper it's printed on. You do not have to obey this. It cannot be enforced." So I signed in large part because Mike Flynn said that.

Now, in addition to that, Mike Flynn had told me through time -- and I had grown to understand that 1) the organization had attempted to assassinate him 2) it had destroyed his marriage and 3) he had to get out of the litigation for those reasons. So I was faced with, if I don't sign, then all of these other people don't get to settle, my lawyer can't get out of the litigation, it's going to go on forever, and in addition to that, I've been told by my own lawyer it's unenforceable, it's not worth the paper it's printed on. So sure, I'll go ahead and sign this thing and I will even attempt to honor it knowing that the only hope for a settlement with that organization is if they do change their spots if they do indeed turn over a new leaf, and if they do indeed repudiate fair game. They haven't done it. Hence we now are again locked in battle.

S: Now what is your present litigation with the Church of Scientology?

G: They brought a lawsuit to attempt to enforce the settlement agreement. Out of it .... in May of this last year, there was a hearing here in Los Angeles, in Superior Court, in front of Judge Sohigian. The organization claims that they got a great big win out of it and that I am enjoined pursuant to the settlement agreement. Not true! Judge specifically said that he would not enforce the settlement agreement other than one very narrow issue. The very narrow issue is that I cannot except pursuant to a subpoena, assist someone intending to file a claim or pressing a claim against the organization. Now that we are appealing even that narrow ruling, because that's unenforceable because if you construe that my... that this video could possibly indirectly help someone in the future, I can't do this. And not only that but if you consider that my existence indirectly or directly helps someone, then I am obliged to take my own life. In other words then I must stop breathing. It's unenforceable hence I feel that I am completely at liberty to associate with whomever I want, to talk to whomever I want, and I act in life that way.

And that is in part why I am here at this event now, why I came to the CAN Conference.

S: OK, so what are your further plans? I mean, you're doing great, now. You've got this luxurious long hair.

G: I want to run a 236 marathon.

S: 236 what? 236 yards?

G: 2 hour and 36 minutes marathon. And I want to..

S: That's what you do, you run.

G: I run. So I want to do that. And I want to end the litigation and I want, you know, peace for everyone. I want to reform the economic system of the world and that's mainly it. I don't have any designs on the U.S. presidency.

S: Presently.

G: No, I can't have, I'm Canadian.

S: Oh, That's right.

G: OK are we done here?

End of Tape.

EXHIBIT E

December 22, 1992

David Miscavige and all other individuals who participate in the control of Scientology
C/O Laurie J. Bartilson, Esquire
Bowles & Moxon
6255 Sunset Blvd., Suite 2000
Los Angeles, CA 90028

Re: Nothling v. Scientology

Dear David and all others involved:

I am writing this to you, and the various copy recipients listed below, because there are certain things it is fair that you know. Although it is the trial in the Nothling case, which, I understand, is set for early February, that has moved me to write at this time, the idea of writing has made addressing a number of other subjects also timely.

You will recall that in June of 1991 when Malcolm Nothling called me and asked me to testify in his case in Johannesburg I wrote to the organization via Eric Lieberman to see if by initiating communication on the subject you might see that there was an answer to your litigation problems different from the one you and your erstwhile leader had been believing in and pursuing as long as any of us can remember.

Mr. Lieberman wrote back, essentially advising me you said stick it in my ear, and that more, not less litigation was going to be the same old solution; and to not expect communication other than the solidest of sorts. Copies of Mr. Lieberman's and my letters are enclosed herewith.

I did travel to South Africa in 1991 to testify, as you know, but the trial was postponed on the organization's motion. Now it's set to happen again. Again Mr. Nothling has asked me to testify, again I have agreed, and again I am writing you to see if there is any sense in attempting to unfoment this litigation.

Your public attack line that Gerald Armstrong foments litigation against you is particularly hurtful because of what I have done and continue to do to unfoment litigation. Even my signing of your settlement agreement was, in the face of your intent to hurt me, which fact is settled by the agreement itself, an act only of unfomentation.

You all should take a good hard look at the hurt your practices, certainly your litigation practices, cause in the world. And you don't have to desist in them because of anything I've said. You can knock off those bad practices for any reason you want, including because they don't work and make no sense.

All the decent people, believe me, in your organization want you to get out of the stupid attack-the-attacker business, and they'd salute you for getting the organization out of that silliness, but they're too frightened. You shouldn't frighten good people that way. It's cruel. And any thinking soul knows that you guys are only acting out of fear, so you really are not fooling anyone with your blindness and bluster.

I realize you've put your faith in really bad things, like lies and PR, threats and bullying, and really mean people, like Gene Ingram. And I'm aware that having put your faith in badness for so long, and spent so many millions of dollars to have so many bad lawyers make so many bad decisions and add so much to their brethren's bad name, it can seem impossible to quit. But you must. All it will take is the willingness to unfoment your litigation.

Eugene M. Ingram has done such nasty things to so many people in the service of your organization, you and he should be spanked. His terrible charge at the CAN convention that I have AIDS is heartbreaking, not because I have AIDS, which I don't, but because your pet pit viper personalizes and focuses your organization's institutionalized hatred.

By accusing me of having AIDS, you and Ingram attack not just me, you attack the many people whose lives have been touched by this disease, or for that matter touched by your organization, and you attack yourself. Your similar-veined attacks on other people of good will at the CAN conference, like Father Kent Burtner, has brought your organization to ignomy.

But the target of faith can be rechosen. And that is where I urge sense and unfomentation. Put your faith in what is real, what is true, what can always be depended on. Put your faith in what in people is true, unchanging and ceaselessly loving. Putting your faith in lies, PR, threats, bullying and bullies you will always betray yourself because you put your faith in nothing; and you and every being everywhere have a right to everything that nothing isn't.

Likewise don't put your faith in litigation or your use of the courts to harass. It is possible to be faithful to a higher ideal than wins in court. If you have put your faith in lies, leverage, advantage and bullying to secure a win, you have gained nothing. If you put your faith in truth, hope, charity, love, no matter the courtroom outcome you have everything; that's religion.

Since the 1991 almost trial in the Nothling case the California Court of Appeal issued its opinion in the appeal you took from the Breckenridge decision in Armstrong I, the California Supreme Court denied review, and the Court of Appeal denied your motion to seal the appellate record. You brought and lost the motion to enforce the settlement agreement before Judge Geernaert in Armstrong I, and then you sued me to enforce it in Armstrong II.

In May Judge Sohigian issued his ruling refusing to enforce the agreement, although enjoining me from testifying unless pursuant to a subpoena. He also ruled that I did not have to not make myself amenable to service of process. I will supply a copy of the Breckenridge decision, the Armstrong opinion and the Sohigian injunction to any of the recipients of this letter upon request.

Because you didn't appeal from the Sohigian injunction, you have accepted it. I believe as well that for a valueless desire for a valueless win at any cost you also accepted his dicta; e.g. "involves abusing people who are weak," "involves techniques of coercion," "a very, very substantial deviation between [your] conduct and standards of ordinary, courteous conduct and standards of ordinary, honest behavior," "be sure you cut the deck," "make sure to count all the chips."

As a result, I consider myself free to do anything anyone can, except testify absent a subpoena. Much of what I am permitted do I am going to do. I am going to write freely, speak freely, publish, talk to the media, associate freely, and continue, until you put your faith in something more religious than what is bad in jurisprudence, to confront the injustice you bring to court.

In the next month or so I expect to initiate speaking or media events to help pay the enormous costs of this litigation. And I expect to promote my legal position within the publishing industry, because my story and my writings on the subject are literarily and commercially worthy.

I will continue to associate with and befriend all those people I consider you attack unjustly and senselessly. I will make my knowledge and support available to the Cult Awareness Network, a group of people of good will you vilify, in all the litigation you have fomented against them. I will make my knowledge and support available to any Scientologist who is afraid to go anywhere else for understanding, and to the families of Scientologists your organization has estranged. I will even make my knowledge and support available to entities like Time and people like Rich Behar in their defenses from your attacks.

I will, nevertheless, remain available to do whatever I can to unfoment your litigation. I will meet with you, talk with you, help you to find a better solution to your problems. Because of your decision to not have anyone communicate with me, no one from your organization has. I get a little lawyer contact, lots of PI BS, an OSA hearing or deposition attender, enough psychic skirmishes for an army, but, for the life of me, no real people.

In 1991, fantastically, I was the only person in the world, other than Malcolm Nothling himself, who was willing to testify at his trial. And that was enough reason to go. In February 1993, although at this trial I probably won't be the only person willing to testify, there will still be ample reasons to go, unless the case can be resolved.

I really would rather there was no trial and I really would rather not go. Lord knows this last period has been overwhelming and the litigation behemoth terrifying; and Lord knows I have my own calling, which has nothing to do with your legal problems. So I'm willing to do a lot to unfoment the Nothling litigation, and all the tangled legal webs you've woven. But I sure can't do much if you continue to see legal warfare as the solution to your problems and continue to pay the millions your legal mercenaries say the warfare costs.

I am aware that with enough money to enough lawyers you, the leaders of your organization, can hide yourselves and make your roles in your trumped-up war seem very important. There is no doubt this is desirable, it just isn't fair. The real purpose of your little war is to facilitate your doing something different from Scientology, while all those whom you control must go through the daily grind you say you're above.

I don't fault you for doing something different from Scientology, but I do not find acceptable your holding Scientologists in bondage to your catastrophic cause, enforcing your lie that you have their best interests in mind, robbing their years of youth and vigor, and putting them at risk while you show up at the occasional ribbon cutting ceremony, lunch with lawyers and the like, sucker celebs, run PIs and intel ops, conspire, cheat, lie, steal, bully and destroy. I urge something more creative as a better idea.

Your hardworking staff members and people of good will around the world who have supported you financially and spiritually will not for much longer be fooled by your foolishness and will stop believing your lies. They will speak to each other, they will speak out against your suppression, and they will act to free themselves and their friends. You cannot much longer, as we move societally into the age of wisdom, cynically and sillily intimidate good people with threat and suppress good people with lies.

There is the matter of mitigation of damages which, because you insist your lawyers tell you what you pay them to say, you may not have heard or yet understood. In that by the Sohigian ruling I am permitted to speak freely, write freely, publish freely, associate freely, when, it could be argued, and you have, that prior to the ruling and pursuant to the settlement agreement I was not so permitted, I have, in your attempt to enforce the agreement, prevailed.

By not appealing the Sohigian ruling you have acquiesced thereto. I am therefore due costs and fees in Armstrong II plus the costs and fees you already owe in your earlier losing and unappealed effort in Armstrong I. But in addition to the fees and costs now owing, and increasing as you protract this already lost litigation, there is the cumulative effect of your legal onslaught which, continuing after the case was lost, if not before, is in every minute malicious.

Gerald Armstrong and The Gerald Armstrong Corporation (TGAC) must also mitigate their damages. I have a duty, therefore, to end this litigation as quickly as possible. Thus I write to so many organizational recipients; thus I canvass to see if within the organization's many parts, all put at risk by their leaders' asininity and mean-spiritedness, there are people of good will who will see sense in what is in their best interest.

That after the Sohigian ruling you sued TGAC (pronounce that Tee-Gee-Ack) is silly and self-destructive. The only thing in the world Gerald Armstrong, individual, is prohibited from doing by the "injunction," is testifying about his Scientology history and knowledge without first accepting the perfunctory subpoena. TGAC only came into existence in 1987, six years after Gerald Armstrong's organization experiences ended, and a year after the Armstrong I litigation "settled."

TGAC cannot testify, with or without subpoena, about any Scientology experiences, because it has had, aside from those which have flowed from your lawsuit, none. Since no one, including TGAC, is prohibited by Sohigian from doing any of the things TGAC actually is capable of doing, it is free to do everything anyone or any other corporation can; and by not appealing the injunction you have so agreed. Thus, having no conceivably legitimate claim against TGAC, you depend on one manufactured from madness, and you must therefore dismiss the mess you've made.

There is also, as mentioned above, the fact that in order to defend myself from your attacks and to fund the defense of the litigation you have fomented I must speak and must publish. I'm sure you understand that I remain completely confident that no court, other than the odd one your mercenaries are able to compromise with bucks, babes or bull, will order me to not defend myself.

I realize you will probably claim to be offended by everything I've written in this letter. I can't do much about that because you seem to take offense no matter what I say or write, or don't. For, *inter alia*, that reason I haven't said or written it differently. I really don't blame you for being offended and I don't expect you not to be offended; nor will I be offended if you are. I think my position is obvious and I think peace is worth doing something about, even if the fomenters of war are offended. I've used the words I've used because to me they make sense and they're a facet of my craft.

This letter is not really, however you may take it, a complaint nor an attack. It is an effort to unfoment your litigation, into which I have been, albeit for some God-given purpose, drawn. So, neither forgetting nor ignoring Judge Sohigian's admonition not to settle Armstrong II, but still hoping, with my heart crossed, here is my proposal:

1. Settle the Nothling case;
2. Settle with Ed Roberts;
3. Dismiss your complaint against TGAC and Gerald Armstrong;
4. Remove all your bar complaints against Ford Greene;
5. Pay my attorney fees and costs;
6. We will dismiss the cross-complaint and appeal;
7. Cancel the agreement;
8. Return all materials you've stolen from me at any time;
9. Pay me whatever you want, including, but not limited to, nothing.

1. Malcolm Nothling has a claim and he has survived a lot to get to trial. His costs, not much by US litigation standards, must be recognized, and he must be made whole financially, ethically and publicly. I am convinced that his daughter, but for your control of her mother and her life, would enjoy a healthy, loving relationship with her father. Therefore you must do whatever is within your power to reunite them.

2. You know about the Ed Roberts case because Ms. Bartilson interrogated me about my providing assistance to Mr. Roberts in my last series of depositions in Armstrong II, and one of your lawyers, Marcello Di Mauro, in earlier times communicated about him with Ford Greene. Ed Roberts is a friend of mine who

was sucked dry and flat out robbed by your registrars on the way to an up- or downstat week of no consequence to anyone as it turns out, and always does, but Ed.

I have found myself in the silly position of being the only person in the world willing to help Mr. Roberts against your organization. Again, I have no desire to have Mr. Roberts engage you in litigation. In fact his situation can be resolved without your fomenting not only more litigation, but more ill will and silliness. For you it is merely an accounting matter. You ripped Mr. Roberts off; now pay him what is needed to make him whole again.

Mr. Roberts' case of Scientology lies, threats, treachery and thievery, his own money then used to pay your pitiless pettifoggers to prevent him from anything resembling redress, is being played and replayed every day of the year in your orgs. I would think that the three or so million you wasted on your inane USA Today ads to counter Richard Behar's few good pages could have taken care of three hundred Mr. Roberts and done a heap of good.

All your ads did was a heap of bad: more lies, more hate, more embarrassment for Scientologists everywhere, another dead forest, and an uncharitable little delay to your victims before they are made whole. The Ed Roberts case is, in my opinion, the proof of Time's theme: that you are - all of you at the top of your organization - a cult of greed. But worse, you squander your plunder, as witness Toronto, starve the good and fatten your PIs and proctors and their proctologists. And all with the fatuous excuse of a right to defend wrongness and attack rightness because your "religion's" stupidity is, in our courts of law, beyond question.

Anyway I want to have Ed's needs taken care of toot sweet. He probably wouldn't think less of you if you didn't apologize, but I think it's a good idea and sure couldn't hurt.

3. I don't care what order everything is done in. I think whatever is most practical, sensible and ergonomically sound is the way to approach this particular program, which, I'm sure can be wrapped up in a couple of days.

4. This is easy. These Ingram-generated efforts have only served to shine a light on your invidiously scheming enterprise. All your similarly baseless bar complaints against my other lawyer, Michael Flynn, came to nothing. You should learn from the earthworms. Filing no spurious bar complaints whatsoever they demonstrate their superior philosophy.

5. Although they're in the range of, I don't think fees and costs are over $500,000. Clearly nothing is going to happen

unless you cover my attorneys' fees and costs. To leave me with that indebtedness is unfair and unworkable. You will recall that I made a proposal in 1984, being then scared and weak: pay my lawyers' fees and costs of, I guessed, $150,000, and I'll quit. You, and in those days, Hubbard, said no way. I, less scared and much stronger, urge you to choose again.

6. Dismissal of the cross-complaint is easy. I'll take care of it.

8. I'm aware this may for a long time remain a pettiness you'd rather not confront. But I can guarantee that if you return my materials - the Hubbard letters manuscript, the Cones, all the other materials you and your PIs have stolen from me over the years, I will not bring criminal charges, and I won't even bring the subject up again.

9. You have to cancel the settlement agreement in order to demonstrate to yourselves that it was the wrong thing in which to put your faith. You will notice that when you cancel the agreement nothing will happen. Yet you will have freed me. And that is what you should make Scientology's only business: freeing people. You will also observe that when you free me you free yourselves; in fact you cannot yourselves be free unless you free me.

Regarding my relationship with you after you cancel the agreement, that is where you must reassert your faith. Have the faith that I will neither say nor write worse things about you if you free me to do so. As you know I can say some pretty pointed things about you now just because you won't cancel that degrading document. Put faith in what occurs in silence. Put faith in the inevitable.

7. You decide. If you think I did a lousy job unfomenting your litigation, pay me zippo. Even if it all works for everyone, timing inspired and ideas a Godsend, you don't have to pay me anything. I generally don't refuse what's offered. You know how much I'm worth.

I haven't forgotten Wollersheim, Yanny I & II, the Aznarans, the CAN litigation, claimants all over the place, your government lawsuits, the rest of the settlement signatories, your taxes, nor your image and media distress, and I think it's appropriate to say that I can help you unfoment those problems as well. I would, of course, need half a chance.

If you look deep in your hearts I believe you'll find you really do not want Scientology's legacy to be one of suppression; suppression of the Constitution, human dignity, truth, religion, justice, even suppression of your own good selves. Wouldn't it be better to be known as the people who ended the madness in peace and style; a radical recognition of the transcendence of quantum scientology. LRH was Newtonian in his physics and relativistic epistemologically. I like to call one aspect of my philosophy, *inter alia* non-mutual exclusivity.

I believe that everyone will become a person of good will, that everyone already is, has been and will forever be, that there is progress and perfection, hope and reason, that to know who we are we must accept the truth of our relationship to our Creator, that all about us that we made is illusion, that we have reason to be grateful that is so, that our Creator, God, our Father Loves us in the same Love by which He created us and holds us always safe and always loved in that Love, that we, His children, are one and One with Him, that the means by which He is remembered, and hence our relationship, and hence who we are, and hence what we know, is forgiveness, that forgiveness is the recognizing of illusion for what it is, that creation is our nature, and that everything is all there is.

With a wish for peace in 1993, I remain hopeful and,

yours sincerely,

G.

Gerald Armstrong
715 Sir Francis Drake Blvd.
San Anselmo, CA 949650
(415)456-8450

:ga

cc: Malcolm Nothling
Ed Roberts
Lawrence Wollersheim
Richard & Vicki Aznaran
Richard Behar
Ford Greene, Esquire
Paul Morantz, Esquire
Joseph A. Yanny, Esquire
Toby L. Plevin, Esquire
Graham E. Berry, Esquire
Stuart Cutler, Esquire
Anthony Laing, Esquire
John C. Elstead, Esquire
Michael J. Flynn, Esquire
Fr. Kent Burtner

Margaret Singer, PhD.
Cult Awareness Network
Daniel A. Leipold, Esquire
Church of Scientology International
Church of Scientology of California
Religious Technology Center
Church of Spiritual Technology
Church of Scientology ASHO
Church of Scientology AOLA
Founding Church of Scientology of Washington, D.C.
Church of Scientology Flag Service Organization
Church of Scientology of Arizona
Church of Scientology of Los Angeles
Church of Scientology of Stevens Creek
Church of Scientology of Sacramento
Church of Scientology of San Francisco
Church of Scientology of Washington State
Church of Scientology of Boston
Church of Scientology of Portland
Church of Scientology of New York

EXHIBIT F

Scientology in the Schools

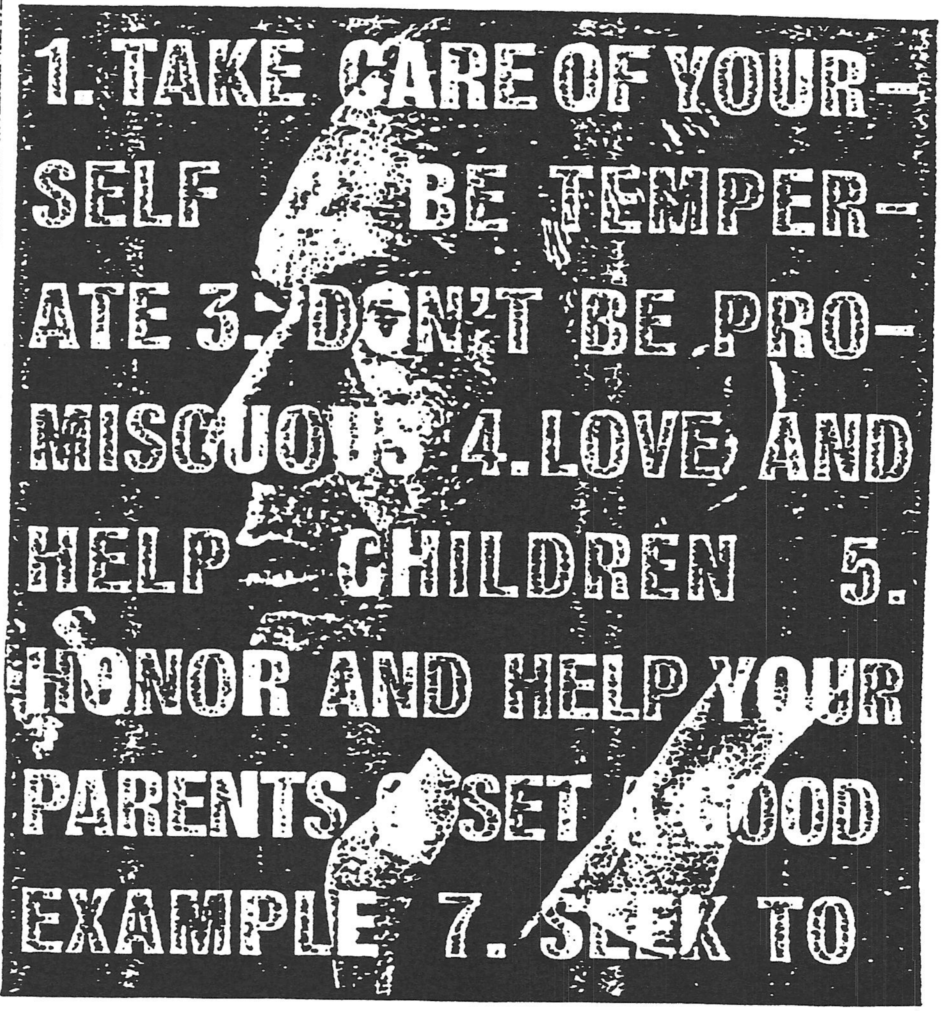
Is L. Ron Hubbard's morals text harmless?

BY KENNETH L. WOODWARD AND CHARLES FLEMING

When Carol Burgeson received a copy of "The Way to Happiness" in the mail 18 months ago, she read it through and decided it was the perfect nonreligious vehicle for teaching moral values to her senior students at Thornton Township High School in Harvey, Ill. So Burgeson ordered more free copies of the book by L. Ron Hubbard and used them to stimulate discussions in her classes. "It seemed so harmless," she says. "Brush your teeth, do your work, don't be tardy—what's wrong with that?"

Nothing. But she was more than a little surprised to discover that the late Hubbard, who is identified in the pamphlets by name only, was the founder of the Church of Scientology, and that the pamphlets are distributed by a foundation tied closely to his controversial religion. She's not alone. With little fanfare, Hubbard's text has found its way into the nation's schools. According to the Scientologists, 8,300 public-school teachers and administrators have used the morality text since it was first published in 1981. Altogether, church officials estimate, 6.8 million pupils in 7,000 U.S. schools have studied Hubbard's moral principles; internationally, more than 34 million copies in 17 different translations have been distributed—sometimes, say Scientologists, by major corporations. "That book," says the Rev. Heber Jentzsch, president of the Church of Scientology International, "has probably had more popularity than anything Mr. Hubbard has written."

The need for books on values has long been recognized by public-school educators. Strapped for cash and under pressure from parents to deliver a values-oriented education, many teachers and administrators welcome any text that promises—as Hubbard's does—to deliver sound moral principles on a "nonreligious" basis. But when NEWSWEEK checked with public-school educators who received the text, some said that they had been misled. In Brooklyn, N.Y., Lawrence Herstik, principal of PS 238, initially welcomed "The Way to Happiness" as "a values-oriented book about righteousness and peace." But he stopped using the text after he discerned "an undercurrent of a religious nature." In ellflower, Calif., Jeanie Cash, principal of the Frank E. Woodruff Elementary School, ordered copies of the Hubbard book but refused to put them into her classrooms when she discovered that they came from the Church of Scientology. "They sent a brochure saying it was a self-esteem program," says Cash. "I feel that I was deceived. We feel very strongly about the separation of church and state."



AP

'Way to Happiness': *Hubbard's 'secular' text*

Since "The Way to Happiness" claims that it is "not part of any church doctrine," Scientology officials insist that its use by public schools poses no problems. Hubbard wrote it in 1980, they report, the year the U.S. Supreme Court ruled that public schools in Kentucky could not display the Ten Commandments in the classroom. Like Scientology itself, says president Jentzsch, the book merely teaches "common sense." However, the volume is published by Bridge Publications, the church's own publishing house, and promoted through The Way to Happiness Foundation, one of several independent corporations designed to propagate Hubbard's thought.

All of these putatively "secular" organizations are coordinated by the Association for Better Living and Education (ABLE), which is an organ of the church. The "Way to Happiness" book is itself part of Hubbard's extensive philosophical and religious writings, which for Scientologists, says Jentzsch, "are the same as the Bible is for Christians and the Koran is for Muslims." What makes "The Way" acceptable for public-school use, Jentzsch argues, is that students who read the book do not have to follow Hubbard's moral principles, while members of the Church of Scientology must.

On the surface, there is little in the book that would trouble any educator who believes in cleanliness, honesty, integrity and tolerance. Among Hubbard's 21 moral principles is this curiously relaxed restatement of the golden rule: "Try not to do things to others that you would not like them to do to you."

But Hubbard's catechism is also studded with jarring axioms. It declares, for example, that "the way to happiness does not include murdering your friends, your family or yourself being murdered."

More important, anyone familiar with Scientology will find that the text uses key words and concepts taken directly from Scientology's religious lexicon. For instance, Scientology teaches that the fundamental point of life is "survival," and that only those who become the "cause" of their own actions can be truly happy. This is also a major theme of "The Way to Happiness." More significant, Scientology teaches that the truth is "what is true for you." This relativistic view is repeated with emphasis in the book. On the other hand, the text is silent about most of Scientology's central tenets: for example, its belief that people suffer from evil deeds done in past lives that the church's ministers can correct through expensive counseling courses, and its adamant opposition to psychiatry.

Front group? Critics of Scientology, including some former officials, argue that "The Way to Happiness" is primarily a recruiting tool for the church. According to Vicki Aznaran, who once served as inspector general of the Religious Technology Center, the church's highest ecclesiastical organization, The Way to Happiness Foundation is "a front group to get people into Scientology" and the book is designed "to make Scientology palatable to the masses." Another former church member, Gerald Armstrong, claims that Hubbard wanted "rich Scientologists to buy huge quantities of this book for distribution. He wanted to go down in history as a scientist or a philosopher or both." Both Aznaran, who runs a private detective agency in Dallas, and Armstrong, who works for an anti-Scientologist attorney in San Francisco, are currently locked in prolonged and bitter litigation with the church over a variety of claims.

Church officials strongly deny that "The Way to Happiness" is a lure to attract potential converts. Still, the church is anxious to broaden its appeal by promoting Hubbard's various "technologies" for combating drugs, reforming criminals, teaching morality and learning how to study—and doing it through its sundry satellites: Narconon, Criminon, Applied Scholastics and The Way to Happiness Foundation. The church's encyclopedic reference text, "What Is Scientology?", claims that 23 corporate giants have used Hubbard's study technology. Yet a check of three of them—Mobil Oil, General Motors and Lancôme—brought denials of any corporate involvement with the church. But if the nation's public schools are any measure, Hubbard's tracts will continue to turn up in the most surprising places. ■

Martyrs for Multiculturalism

Courses that students at UCLA might die for

For 20 years, the University of California, Los Angeles, has offered courses about Chicano culture and history. But last April, on the eve of the funeral of Cesar Chavez, the farm workers' union leader, officials announced that they would not create a special department devoted to Chicano studies—instead they pledged to improve the existing program. Since then, the campus has reverted to '60s-style protests. Students—mostly Chicanos—took over a faculty center, then trashed it. City police arrested 99 demonstrators. And now, on the lawn outside the administration building, nine demonstrators have taken a page from the Chavez manual, pledging to fast until a department is created—or they die.

If You Support
DEMAND
Chicana/o Studies
THERE'S A HO
IN OUR CURRIC
ETHNIC / GENDER

LESTER SLOAN—NEWSWEEK

A fight to the death: *Protesters at UCLA*

Is this a cause worth dying for? "We are risking our lives to save lives," says hunger striker Jorge Mancillas, assistant professor of biology at UCLA's medical school. More academic attention, he thinks, will eventually pay off in a more prosperous, stronger Chicano community. But UCLA does not have separate departments for any special-interest group. Asians, blacks and women have all had to content themselves with interdisciplinary majors taught by professors from traditional academic departments. That arrangement is unsatisfactory, say the demonstrators, because faculty members have little time or encouragement to concentrate on ethnic studies. Their solution: full academic status for Chicano studies. "We cannot continue to the next necessary step without departments," says Luis Torres, an English- and Chicano-studies professor at the University of Southern Colorado who also heads the National Association of Chicano Studies. (About 17 percent of UCLA's 23,000 students are Chicano; many have not joined the campus demonstrations.)

UCLA administrators insist that a field like Chicano studies—touching on history, sociology, literature, feminism and other disciplines—is best left as an interdisciplinary program. That structure encourages the flow of ideas among Chicano-studies faculty and other specialists. Creating separate departments, says UCLA Provost Herbert Morris, encourages a "Balkanization" that the university wants to avoid. "We need the ethnic perspectives to pervade all the departments," says Morris, who does agree that the Chicano program needed improvement.

Chancellor Charles E. Young offered to take several important steps to bolster the Chicano-studies program. First, all ethnic- and gender-studies programs would be exempt from funding cuts for two years—a critical gesture because the UC system is strapped for cash. Second, new faculty would be appointed jointly to Chicano studies and an existing department—history, say, or languages. Also, Young insists that this year's decision need not be the final one. He suggests that the idea of a full-fledged department can be re-examined in a few years. Seeking an end to the demonstrations last week, university officials offered even more funding and more faculty for the program. So far, the protesters have rejected his offers—as well as food. In a state where minorities now account for nearly half of the student body at some public universities—and sometimes more—the bitter conflict at UCLA will not be the last.

CONNIE LESLIE *with* ANDREW MURR *at UCLA*

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Boulevard, Suite 2000, Los Angeles, CA 90028.

On April 4, 1994 I served the foregoing document described as VERIFIED SECOND AMENDED COMPLAINT FOR DAMAGES AND FOR PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF FOR BREACH OF CONTRACT on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] true copies thereof in sealed envelopes addressed as follows:

PAUL MORANTZ
P.O. Box 511
Pacific Palisades, CA 90272

FORD GREENE
HUB Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

[X] BY MAIL

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on April 4, 1994 at Los Angeles, California.

[ ] **(BY PERSONAL SERVICE) I delivered such envelopes by hand to the offices of the addressees.

Executed on ________________, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Gaabriel Becket
Print or Type Name

Gaabriel Becket
Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

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INTERNATIONAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; MICHAEL WALTON; THE GERALD ARMSTRONG CORPORATION, a California for-profit corporation; DOES 1 through 100, inclusive, Defendants.	CASE NO. 1 [illegible] VERIFIED COMPLAINT TO SET ASIDE FRAUDULENT TRANSFERS AND FOR DAMAGES; CONSPIRACY [C.C. §§ 3302, 3439.07(a)(1),(3)] DATE: TIME: DEPT: DISCOVERY CUT-OFF: None MOTION CUT-OFF: None TRIAL DATE: None

Plaintiff, by its attorneys, Wilson, Ryan & Campilongo and Bowles & Moxon, for its Complaint, alleges:

NATURE OF THE ACTION

1. In December, 1986, plaintiff and defendant Gerald Armstrong ("Armstrong") entered into a settlement agreement ("the Agreement"). The Agreement provided for a mutual release and

waiver of all claims arising out of a cross-complaint which defendant Armstrong had filed in the case of Church of Scientology of California v. Gerald Armstrong, Los Angeles Superior Court No. C 420153. Armstrong, a former Church member who sought, by both litigation and covert means, to disrupt the activities of his former faith, displayed through the years an intense and abiding hatred for the Church, and an eagerness to annoy and harass his former co-religionists by spreading enmity and hatred among members and former members. Plaintiff sought, with the Agreement, to end all of Armstrong's covert activities against it, along with the litigation itself. For that reason, the Agreement contained carefully negotiated and agreed-upon confidentiality provisions and provisions prohibiting Armstrong from fomenting litigation against plaintiff by third parties. These provisions were bargained for by plaintiff to put an end to the enmity and strife generated by Mr. Armstrong once and for all. The Agreement also provided, inter alia, for liquidated damages to be paid by Armstrong should he choose to breach these provisions.

2. In or about February, 1990, Armstrong began to take a series of actions which directly violated provisions of the Agreement. Fearing that plaintiff would seek to collect the liquidated damages owed by his breaches, Armstrong, as set forth below, fraudulently conveyed all of his property, including real property located in Marin County, cash, and personal property to defendants Michael Walton, the Gerald Armstrong Corporation, and Does 1-100, receiving no consideration in return. Thereafter, Armstrong deliberately set out to repeatedly breach the

Agreement, incurring a debt which at present totals at least $1,800,000, and which he has and had no assets to use to satisfy the debt.

3. Armstrong's breaches and resulting indebtedness are presently the subject of two actions pending in Los Angeles Superior Court, Church of Scientology International v. Armstrong, LASC No. BC 052395 ("the First Action"), demanding liquidated damages of $600,000.00 for breaches occurring between July, 1991 and May, 1992, and Church of Scientology International v. Armstrong, LASC No. BC 084642 ("the Second Action"), demanding liquidated damages of $1,200,000.00, for breaches occurring between August, 1991 and June, 1993.

THE PARTIES

4. Plaintiff Church of Scientology International is a non-profit religious corporation incorporated under the laws of the State of California, having its principal offices in Los Angeles, California. Plaintiff CSI is the Mother Church of the Scientology religion.

5. Defendant Gerald Armstrong is a resident of Marin County, California.

6. Defendant Michael Walton is a resident of Marin County, California.

7. Defendant Gerald Armstrong Corporation ("GAC") is a corporation incorporated under the laws of the State of California, having its principal offices in San Anselmo, California.

8. Plaintiff is ignorant of the names and capacities of the defendants identified as DOES 1 through 25, inclusive, and thus brings suit against those defendants by their true names

upon the ascertainment of their true names and capacities, and their responsibility for the conduct alleged herein.

DEFENDANT GAC IS THE ALTER EGO OF DEFENDANT ARMSTRONG

9. Defendant Armstrong is GAC's president and sole officer, its principal shareholder and sole employee, and has been since the incorporation of GAC in 1987. Further, defendant Armstrong has the sole and exclusive right to control the corporation's bank account and its disbursement of funds.

10. Defendant GAC is, and at all times since its incorporation was, the alter ego of defendant Armstrong. There exists, and at all times since GAC's incorporation has existed, a unity of interest and ownership between these two defendants such that any separateness between them has ceased to exist: Defendant Armstrong caused his own personal assets to be transferred to GAC without adequate consideration in order to evade payment of his lawful obligations, and defendant Armstrong has completely controlled, dominated, managed and operated GAC since its incorporation for his own personal benefit.

11. Defendant GAC is, and at all times mentioned was, a mere shell, instrumentality and conduit through which defendant Armstrong carried on his activities in the corporate name exactly as he conducted them previous to GAC's incorporation. Armstrong exercised and exercises such complete control and dominance of such activities that any individuality or separateness of defendant GAC and defendant Armstrong does not, and at all relevant times did not, exist.

12. Adherence to the fiction of the separate existence of

defendant GAC as an entity distinct from defendant Armstrong would permit an abuse of the corporate privilege and would sanction fraud, in that Armstrong transferred his material assets to GAC in 1988, at the time of his embarkation on the campaign of harassment described herein, and with the intention of preventing plaintiff from obtaining monetary relief from Armstrong pursuant to the liquidated damages clause. Hence, GAC exists solely so that Armstrong may be "judgment proof."

THE CONTRACT

13. On or about December 6, 1986, CSI and Armstrong entered into a written confidential settlement Agreement, a true and correct copy of which is attached hereto as Exhibit A, and incorporated by reference.

14. The Agreement was entered into by plaintiff and defendant Armstrong, with the participation of their respective counsel after full negotiation. Each provision of the Agreement was carefully framed by the parties and their counsel to accurately reflect the agreement of the parties.

15. Plaintiff specifically negotiated for and obtained from Armstrong the provisions in the Agreement delineated in paragraphs 7(D), 7(H), 7(G), 10 and paragraphs 12 through 18. Plaintiff took this step because it was well aware, through investigation, that Armstrong had undertaken a series of covert activities, apart from the litigation, which were intended by Armstrong to discredit Church leaders, spark government raids into the Churches, create phony "evidence" of wrongdoing against the Churches, and, ultimately, destroy the Churches and their leadership.

16. Paragraph 7(D) of the Agreement provided, in substance, that Armstrong: (1) would not create or publish, or assist another in creating or publishing, any media publication or broadcast, concerning information about plaintiff, L. Ron Hubbard or any other persons or entities released by the Agreement; (2) would maintain "strict confidentiality and silence" with respect to his alleged experiences with plaintiff or any knowledge he might have concerning plaintiff, L. Ron Hubbard, or other Scientology-related entities and individuals; (3) would not disclose any documents which related to plaintiff or other identified entities and individuals; and (4) would pay to plaintiff $50,000 in liquidated damages for each disclosure or other breach of that paragraph.

17. Contemporaneously with the signing of the Agreement, Armstrong represented that he understood the Agreement's provisions and was acting of his own free will and not under duress.

18. The Agreement also provided that plaintiff CSI would pay to Armstrong's attorney, Michael Flynn, a lump sum amount intended to settle not just Armstrong's case, but the cases of other clients of Mr. Flynn as well, and that Mr. Flynn would pay to Armstrong a portion of that settlement amount. The exact amount of the portion to be paid to Armstrong by Mr. Flynn was maintained as confidential between Mr. Flynn and Armstrong.

19. CSI paid to Mr. Flynn the lump sum settlement amount.

20. Mr. Flynn paid to Armstrong his confidential portion of the lump sum settlement amount, which was at least $520,000, after expenses.

21. The consideration paid to Armstrong was fair, reasonable and adequate. Plaintiff CSI has performed all of its obligations pursuant to the Agreement.

BREACHES OF THE AGREEMENT

22. Beginning in February, 1990, and continuing unabated until the present, Armstrong has breached the Agreement wilfully and repeatedly, including, inter alia, the provisions of Paragraph 7(D) of the Agreement which require Armstrong to pay plaintiff liquidated damages for each such breach.

23. In addition to the breaches of the Agreement which invoke the liquidated damages clause, Armstrong has committed additional violations of provisions of the Agreement which entitle plaintiff to compensatory damages according to proof.

24. Despite demand by plaintiff, Armstrong has refused to pay any damages, liquidated or compensatory, for the deliberate breaches of the Agreement described herein.

25. The breaches described herein are presently the subject of litigation in the First Action and the Second Action, and have not yet been reduced to judgment.

FIRST CAUSE OF ACTION

TO SET ASIDE FRAUDULENT TRANSFER OF REAL PROPERTY

(Against Defendants Gerald Armstrong and Michael Walton)

26. Plaintiff realleges paragraphs 1 - 25, inclusive, and incorporates them herein by reference.

27. On or about August 24, 1990, defendant Gerald Armstrong was an owner and in possession and control of that real property situated in Marin County known as 707 Fawn Drive, San Anselmo, California, and more particularly described as follows:

PARCEL ONE

PARCEL TWO as shown upon that certain Parcel Map entitled, "Parcel Map Lands of California Land Title Portion Lands described in book 2887 of Official Records, at page 367, also being Portion of Lots 501 and 501-A unrecorded Map of Sleepy Hollow Acres, Vicinity of San Anselmo, Marin County, California, filed for record April 8, 1976 in Volume 12 of Parcel Maps, at page 43, Marin County Records.

EXCEPTING THEREFROM that portion deeded to Alain Pigois and Nina Pigois, husband and wife, as community property, by Deed recorded February 27, 1989, Serial No. 89 13373.

PARCEL TWO

AN EASEMENT for ingress, egress and public utility purposes described as follows:

BEGINNING at a point on the centerline of Fawn Drive, said point being the most southwesterly corner of Parcel 3, as shown upon that certain map entitled, "Parcel Map Lands of California Land Title Portion Lands described in Book 2887 of Official Records, at page 367, also being a portion of Lots 501 and 501-A, unrecorded Map of Sleepy Hollow Acres, Vicinity of San Anselmo, Marin County, California", filed for record April 9, 1976 in Volume 12 of Parcel Maps, at page 43, Marin County Records, said point also being the intersection of the calls "South 26° 20′ East 135 feet and North 63° 40′ East 20 feet" as contained in Parcel 2 of the Deed executed by California Land Title Company, a corporation to Michael C. McGuckin, et ux, recorded March 26, 1976 in Book 3010 of Official Records, at page 190, Marin County Records; thence from said point of beginning and along the exterior boundary of said Parcel 3, North 63° 40′ East 20 feet; thence North 75° 07′ 20" East 164.00 feet; thence leaving said exterior boundary of Parcel 3, North 12° 41′ East 85.00 feet; thence North 30° 45′ West 126.00 feet, thence North 13° 30′ East 79.21 feet to the northwesterly boundary of Parcel 1, as shown upon that certain map referred to hereinabove; thence along the exterior boundary of said Parcel 1, South 84° 00′ west 75.70 feet to the most Northerly corner of the parcel of land described in the Deed executed by Charles B. Roertson, et ux, to Paul Hopkins Talbot, Jr., et ux, recorded January 30, 1956 in book 1002 of Official Records, at page 623, Marin County Records; thence 111.77 feet, thence leaving said exterior boundary of Parcel 1, South 18° 45′ East 95.06 feet thence South 21° 48′ West 70.66 feet; thence South 75° 07′ 20" West 160.00 feet to the certline of Fawn Drive; thence along the exterior boundary of said Parcel 3, also being the centerline of "Fawn Drive, South 26° 20′ East 34.46 feet to the point of beginning.

28. On or about August 24, 1990, defendants Gerald Armstrong and Michael Walton transferred by grant deed the above-described property to defendant Michael Walton. On August 27, 1990, the grant deed was recorded in Marin County Official Records as number 90 50497 in the Office of the County Recorder of Marin County, California.

29. Plaintiff is further informed and believes and thereon alleges that the transfer was made with an actual intent to hinder, delay or defraud plaintiff in the collection of its damages.

30. Further, plaintiff is informed, and believes, and thereon alleges that at the time Armstrong made the transfers, he intended in the future to engage in the conduct in breach of his Agreement with plaintiff, described above, knowing that he would thereby incur the damages described herein and for which he would have rendered himself judgment-proof.

31. Defendant Armstrong received no money or other consideration in exchange for the aforementioned transfer. Plaintiff is informed and believes and thereon alleges that at the time of the transfer of the real property defendant Armstrong's interest in the real property was not less than $397,500.00. Thus, defendant Armstrong did not receive reasonably equivalent value in exchange for his interest in the real property.

32. Plaintiff is informed and believes and thereon alleges that defendant Walton received the above-described real property

with knowledge that defendant Armstrong intended to (1) hinder, delay or defraud the collection of plaintiff's aforementioned damages and (2) further breach his Agreement with plaintiff, thereby incurring substantial damages which it would be impossible for Armstrong to pay. Defendant Walton had previously advised Armstrong concerning the Agreement and was familiar with its terms and conditions; further, Armstrong had informed defendant Walton of his vendetta against plaintiff and all Churches of Scientology, and of his intentions to breach the Agreement. Moreover, Walton was well aware of the fraudulent nature of the transfer, for which he received no money or other consideration.

SECOND CAUSE OF ACTION

TO SET ASIDE FRAUDULENT TRANSFER OF ASSETS

(Against All Defendants)

33. Plaintiff realleges paragraphs 1-25, inclusive, and incorporates them herein by reference.

34. On or about August, 1990, defendant Gerald Armstrong was the owner and in possession and control of approximately $41,500 in cash, and shares of stock in The Gerald Armstrong Corporation which were valued by Armstrong at $1,000,000.

35. On or about August, 1990, Armstrong transferred the $41,500 in cash and the shares of stock in The Gerald Armstrong Corporation to defendants Walton and Does 1 - 100.

36. Plaintiff is further informed and believes and thereon alleges that the transfer was made with an actual intent to hinder, delay or defraud plaintiff in the collection of its damages.

37. Further, plaintiff is informed, and believes and thereon alleges that at the time Armstrong made the transfers, he intended in the future to engage in the conduct in breach of his Agreement with plaintiff, described above, knowing that he would thereby incur the damages described herein, and for which he would have rendered himself and his corporation judgment-proof.

38. Defendant Armstrong received no money or other consideration in exchange for the aforementioned transfer. Plaintiff is informed and believes and thereon alleges that at the time of the transfer of the cash and stock, defendant Armstrong's interest in the cash and stock was not less than $1,041,500. Thus, defendant Armstrong did not receive reasonably equivalent value in exchange for his interest in the transferred assets.

39. Plaintiff is informed and believes and thereon alleges that defendants Walton and Does 1 -100 received the above-described real property with knowledge that defendant Armstrong intended to (1) hinder, delay or defraud the collection of plaintiff's aforementioned damages; and (2) further breach his Agreement with plaintiff, thereby incurring substantial damages which it would be impossible for Armstrong or his corporation to pay. Defendant Walton had previously advised Armstrong concerning the Agreement and was familiar with its terms and conditions; further, Armstrong had informed defendant Walton and Does 1-100 of his vendetta against plaintiff and all Churches of Scientology, and of his intentions to breach the Agreement. Moreover, Walton and Does 1-100 were well aware of the fraudulent nature of the transfer, for which they received no money or other

consideration.

THIRD CAUSE OF ACTION

CONSPIRACY

(Against All Defendants)

40. Plaintiff realleges paragraphs 1-32 and 34-39, inclusive, and incorporates them herein by reference.

41. As alleged above, in August, 1990, defendants Armstrong, Walton, and Does 1 - 100 agreed, and knowingly and willfully conspired between themselves to hinder, delay and defraud plaintiff in the collection of its damages, and to render Armstrong unable to pay any and all damages to plaintiff which Armstrong had incurred and intended to and did incur in violation of the Agreement.

42. Pursuant to this conspiracy, the above-named defendants agreed that Walton and Does 1 - 100 would take ownership and/or possession of all of defendant Armstrong's assets of any value, including the above-described real property, cash and stock and everything remaining from the proceeds of the settlement which Armstrong had accepted from plaintiff pursuant to the Agreement. Further, the defendants conspired and agreed to hide any and all future assets acquired by Armstrong in the sham corporation, The Gerald Armstrong Corporation, in order to protect Armstrong's assets from collection so long as he was breaching the Agreement, and plaintiff was attempting to collect damages for those breaches. Plaintiff is unaware of the present value of those assets which have been so hidden, but is informed and believes and thereon alleges that their value exceeds $1,800,000, the minimum value of plaintiff's claim.

43. Defendants Armstrong, Walton, The Gerald Armstrong Corporation and Does 1 - 100 did the acts and things herein alleged pursuant to, and in furtherance of, the conspiracy and agreement alleged above.

44. As a proximate result of the wrongful acts herein alleged, plaintiff has been generally damaged in the sum of $1,800,000.

45. At all times mentioned herein, defendants Walton, Armstrong, The Gerald Armstrong Corporation and Does 1-100 knew of defendant Armstrong's actions and intended actions against plaintiff, knew of Armstrong's resultant obligation to plaintiff, and knew that plaintiff's claims could only be satisfied out of the property, sums and stock transferred by Armstrong. Notwithstanding this knowledge, defendants Walton, Armstrong, The Gerald Armstrong Corporation and Does 1-100 intentionally, willfully, fraudulently and maliciously did the things herein alleged to defraud and oppress plaintiff. Plaintiff is therefore entitled to exemplary or punitive damages in the sum of $3,000,000 against all defendants, individually and severally.

WHEREFORE, plaintiff prays for judgment as follows:

ON THE FIRST CAUSE OF ACTION

1. That the transfer of the real property from defendant Armstrong to defendant Walton be set aside and declared void as to the plaintiff herein to the extent necessary to satisfy plaintiff's claim in the sum of $1,800,000 plus interest thereon at the maximum rate permitted by law from 1990;

2. That defendant Walton be restrained from disposing of

the property transferred;

3. That a temporary restraining order be granted plaintiff enjoining and restraining defendant Walton, and his representatives, agents, and attorneys from selling, transferring, conveying, or otherwise disposing of any of the property transferred;

4. That the judgment herein be declared a lien on the property transferred;

5. That an order be made declaring that defendant Walton holds all of the real property described above in trust for plaintiff.

6. That defendant Walton be required to account to plaintiff for all profits and proceeds earned from or taken in exchange for the property described above.

ON THE SECOND CAUSE OF ACTION

1. That the transfer of assets from defendant Armstrong to defendants Walton and Does 1 - 100 be set aside and declared void as to the plaintiff herein to the extent necessary to satisfy plaintiff's claim in the sum of $1,800,000 plus interest thereon at the maximum rate permitted by law from 1990;

2. That defendants Walton, The Gerald Armstrong Corporation and Does 1 - 100 be restrained from disposing of the property transferred;

3. That a temporary restraining order be granted plaintiff enjoining and restraining defendants Walton, The Gerald Armstrong Corporation and Does 1 - 100, and their representatives, agents, and attorneys from selling, transferring, conveying, or otherwise disposing of any of the property transferred;

VERIFICATION

I, ANDREW H. WILSON, declare as follows:

I am one of the attorneys for the Plaintiff Church of Scientology International in the above-entitled matter. I have read the foregoing Verified Complaint to Set Aside Fraudulent Transsfers and for Damages; Conspiracy and know the contents thereof, which are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters, I believe it to be true.

I declare under the penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct. Executed on July 21, 1993 at San Francisco, California.

ANDREW H. WILSON